

T H E  
S P E E C H E S  
O F  
His Excellency Governor HUTCHINSON,  
T O T H E  
G E N E R A L   A S S E M B L Y  
O F T H E   M A S S A C H U S E T T S - B A Y .

At a Session begun and held on the Sixth  
of *January*, 1773.

W I T H   T H E  
A N S W E R S  
O F  
His MAJESTY'S COUNCIL

A N D   T H E  
H O U S E   O F   R E P R E S E N T A T I V E S  
R E S P E C T I V E L Y .

*[Publish'd by Order of the House.]*

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B O S T O N ;   N E W - E N G L A N D :  
P R I N T E D   B Y   E D E S   A N D   G I L L ,   P R I N T E R S   T O   T H E  
H O N O R A B L E   H O U S E   O F   R E P R E S E N T A T I V E S .  
M, DCC, LXXIII,






## SPEECHES, &c.

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*HIS Excellency the Governor was pleased to open the Assembly with the following Speech to both Houses, viz.*

Gentlemen of the Council, and,

Gentlemen of the House of Representatives.

 I HAVE nothing in special Command from his Majesty to lay before you at this Time; I have general Instructions to recommend to you, at all Times, such Measures as may tend to promote that Peace and Order upon which your own Happiness and Prosperity as well as his Majesty's Service very much depend. That the Government is at present in a disturbed and disordered State is a Truth too evident to be denied. The Cause of this Disorder appears to me equally evident. I wish I may be able to make it appear so to you, for then I may not doubt that you will agree

agree with me in the proper Measures for the Removal of it. I have pleased myself, for several Years past, with Hopes that the Cause would cease of itself and the Effect with it, but I am disappointed, and I may not any longer, consistent with my Duty to the King and my Regard to the Interest of the Province, delay communicating my Sentiments to you upon a Matter of so great Importance. I shall be explicit and treat the Subject without Reserve. I hope you will receive what I have to say upon it with Candor, and, if you shall not agree in Sentiments with me, I promise you, with Candor likewise, to receive and consider what you may offer in Answer.

When our Predecessors first took Possession of this Plantation or Colony, under a Grant and Charter from the Crown of England, it was their Sense, and it was the Sense of the Kingdom, that they were to remain subject to the supreme Authority of Parliament. This appears from the Charter itself and from other irresistible Evidence. This supreme Authority has, from Time to Time, been exercised by Parliament and submitted to by the Colony, and hath been, in the most express Terms, acknowledged by the Legislature and, except about the Time of the Anarchy and Confusion in England which preceeded the Restoration of King Charles the Second, I have not discovered that it has been called in Question even by private or particular Persons until within seven or eight Years last past. Our Provincial or Local Laws have, in numerous Instances, had Relation to Acts of Parliament made to respect the Plantations in general and this Colony in particular,

lar, and in our Executive Courts both Juries and Judges have, to all Intents and Purposes, considered such Acts as Part of our Rule of Law. Such a Constitution, in a Plantation, is not peculiar to England but agrees with the Principles of the most celebrated Writers upon the Law of Nations that "when a Nation takes Possession of a distant Country and settles there, that Country, though separated from the principal Establishment or Mother Country, naturally becomes a Part of the State equally with its ancient Possessions."

So much however of the Spirit of Liberty breathes thro' all Parts of the English Constitution, that although from the Nature of Government there must be one supreme Authority over the whole, yet this Constitution will admit of subordinate Powers with legislative and executive Authority, greater or less according to local and other Circumstances. Thus we see a Variety of Corporations formed within the Kingdom with Powers to make and execute such Bylaws as are for their immediate Use and Benefit, the Members of such Corporations still remaining subject to the general Laws of the Kingdom. We see also Governments established in the Plantations which, from their separate and remote Situation, require more general and extensive Powers of Legislation within themselves than those formed within the Kingdom, but subject nevertheless, to all such Laws of the Kingdom as immediately respect them or are designed to extend to them, and accordingly we in this Province have, from the first Settlement of it, been left to the Exercise of our legislative and executive Powers. Parliament  
occasionally

occasionally though rarely, interposing as in its Wisdom has been judged necessary.

Under this Constitution, for more than One Hundred Years, the Laws both of the supreme and subordinate Authority were in general, duly executed, Offenders against them have been brought to condign Punishment, Peace and Order have been maintained and the People of this Province have experienced as largely the Advantages of Government, as, perhaps, any People upon the Globe, and they have from Time to Time in the most public Manner expressed their Sense of it and, once in every Year, have offered up their united Thanksgivings to God for the Enjoyment of these Privileges and, as often, their united Prayers for the Continuance of them,

At Length the Constitution has been called in Question and the Authority of the Parliament of Great-Britain to make and establish Laws for the Inhabitants of this Province has been, by many, denied. What was, at first, whispered with Caution, was soon after openly asserted in Print and, of late, a Number of Inhabitants in several of the principal Towns in the Province, have assembled together in their respective Towns and, having assumed the Name of legal Town Meetings, have passed Resolves which they have ordered to be placed upon their Town Records, and caused to be printed & published in Pamphlets and News-Papers. I am sorry that it is thus become impossible to conceal what I could wish had never been made public. I will not particularize these Resolves or Votes and shall only observe to you,  
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in general, that some of them deny the supreme Authority of Parliament, and so are repugnant to the Principles of the Constitution, and that others speak of this supreme Authority, of which the King is a constituent Part and to every Act of which his Assent is necessary, in such Terms as have a direct Tendency to alienate the Affections of the People from their Sovereign who has ever been most tender of their Rights, and whose Person, Crown and Dignity we are under every possible Obligation to defend and support. In consequence of these Resolves, Committees of Correspondence are formed, in several of those Towns, to maintain the Principles upon which they are founded.

I know of no Arguments, founded in Reason, which will be sufficient to support these Principles or to justify the Measures taken in Consequence of them. It has been urged, that the sole Power of making Laws is granted by Charter to a Legislature established in the Province, consisting of the King by his Representative the Governor, the Council and the House of Representatives—that by this Charter there are likewise granted or assured to the Inhabitants of the Province all the Liberties and Immunities of free and natural Subjects, to all Intents Constructions and Purposes whatsoever, as if they had been born within the Realm of England—that it is Part of the Liberties of English Subjects, which has its Foundation in Nature, to be governed by Laws made by their Consent in Person or by their Representative—that the Subjects in this Province are not and cannot be Represented in the Parliament of Great-Britain

Britain and, consequently, the Acts of Parliament cannot be binding upon them.

I do not find, Gentlemen, in the Charter such an Expression as *sole* Power or any Words which import it. The General Court has, by Charter, *full* Power to make such Laws as are not repugnant to the Laws of England. A favourable Construction has been put upon this Clause when it has been allowed to intend such Laws of England only as are expressly declared to respect us. Surely then this is by Charter a Reserve of Power and Authority to Parliament to bind us by such Laws, at least, as are made expressly to refer to us and, consequently, is a Limitation of the Power given to the General Court. Nor can it be contended that by the Liberties of free and natural Subjects is to be understood an Exemption from Acts of Parliament because not represented there, seeing it is provided, by the same Charter, that such Acts shall be in Force; and if they that make the Objection to such Acts will read the Charter with Attention, they must be convinced that this Grant of Liberties and Immunities is nothing more than a Declaration and Assurance on the Part of the Crown that the Place to which their Predecessors were about to remove was and would be considered as Part of the Dominions of the Crown of England, and therefore that the Subjects of the Crown so removing, and those born there or in their Passage thither or in their Passage from thence, would not become Aliens but would throughout all Parts of the English Dominions, wherever they might happen to be, as well as within the Colony,

Colony, retain the Liberties and Immunities of free and natural Subjects, their Removal from or not being born within the Realm notwithstanding. If the Plantations be Part of the Dominions of the Crown, this Clause in the Charter does not confer or reserve any Liberties but what would have been enjoyed without it and what the Inhabitants of every other Colony do enjoy where they are without a Charter. If the Plantations are not the Dominions of the Crown will not all that are born here be considered as born out of the Ligeance of the King of England, and whenever they go into any Part of the Dominions will they not be deemed Aliens to all Intents and Purposes, this Grant in the Charter notwithstanding ?

They who claim Exemption from Acts of Parliament by Virtue of their Rights as Englishmen, should consider that it is impossible the Rights of English Subjects should be the same, in every Respect, in all Parts of the Dominions. It is one of their Rights as English Subjects to be governed by Laws made by Persons in whose Election they have, from Time to Time, a Voice—They remove from the Kingdom where, perhaps, they were in the full Exercise of this Right to the Plantations where it cannot be exercised or where the Exercise of it would be of no Benefit to them. Does it follow that the Government, by their Removal from one Part of the Dominions to another, loses it's Authority over that Part to which they remove, and that they are freed from the Subjection they were under before ; or do they expect that Government should relinquish

its Authority because they cannot enjoy this particular Right ? Will it not rather be said that, by this their voluntary Removal, they have relinquished for a Time at least, one of the Rights of an English Subject which they might if they pleased have continued to enjoy and may again enjoy whensoever they will return to the Place where it can be exercised ?

They who claim Exemption, as Part of their Rights by Nature, should consider that every Restraint which Men are laid under by a State of Government is a Privation of Part of their natural Rights, and of all the different Forms of Government which exist, there can be no two of them in which the Departure from Natural Rights is exactly the same. Even in Case of Representation by Election, do they not give up Part of their natural Rights when they consent to be represented by such Person as shall be chosen by the Majority of the Electors, although their own Voices may be for some other Person ? And is it not contrary to their natural Rights to be obliged to submit to a Representative for seven Years, or even one Year, after they are dissatisfied with his Conduct, although they gave their Voices for him when he was elected ? This must therefore be considered as an Objection against a State of Government rather than against any particular Form.

If what I have said shall not be sufficient to satisfy such as object to the Supreme Authority of Parliament over the Plantations, there may something further be added to induce them to an  
Acknowledgment

Acknowledgment of it which I think will well deserve their Consideration. I know of no Line that can be drawn between the supreme Authority of Parliament and the total Independence of the Colonies : It is impossible there should be two independent Legislatures in one and the same State, for although there may be but one Head, the King, yet the two Legislative Bodies will make two Governments as distinct as the Kingdoms of England and Scotland before the Union. If we might be suffered to be altogether independent of Great-Britain, could we have any Claim to the Protection of that Government of which we are no longer a Part ? Without this Protection should we not become the Prey of one or the other Powers of Europe, such as should first seize upon us ? Is there any Thing which we have more Reason to dread than Independence ? I hope it will never be our Misfortune to know by Experience the Difference between the Liberties of an English Colonist and those of the Spanish, French or Dutch.

If then the Supremacy of Parliament over the whole British Dominions shall no longer be denied, it will follow that the *meer* Exercise of its Authority can be no Matter of Grievance. If it has been or shall be exercised in such Way and Manner as shall appear to be grievous, still this cannot be sufficient Grounds for immediately denying or renouncing the Authority or refusing to submit to it. The Acts and Doings of Authority in the most perfect Form of Government will not always be thought just and equitable by all the Parts of which it consists, but it is the greatest

Abfurdity to admit the feveral Parts to be at Liberty to obey or difobey according as the Acts of fuch Authority may be approved or difapproved of by them, for this neceffarily works a Diffolution of the Government. The Manner then of obtaining Redrefs muft be by Representations and Endeavours, in fuch Ways and Forms as the eftablifhed Rules of the Conftitution prefcibe or allow in order to make any Matters alledged to be Grievances appear to be really fuch ; but I conceive it is rather the *meer* Exercife of this Authority which is complained of as a Grievance, than any heavy Burdens which have been bro't upon the People by Means of it.

As Contentment and Order were the happy Effects of a Conftitution ftrengthened by univerfal Affent and Approbation, fo Difcontent and Diforder are now the deplorable Effects of a Conftitution enfeebled by Conteft and Oppofition. Befides Divifions and Animofities which difturb the Peace of Towns and Families, the Law in fome important Cafes cannot have its Courfe,-- Offenders ordered by Advice of His Majefty's Council to be profecuted, efcape with Impunity and are fupported and encouraged to go on offending,—the Authority of Government is bro't into Contempt, and there are but fmall Remains of that Subordination which was once very conspicuous in this Colony, and which is effential to a well-regulated State.

When the Bands of Government are thus weakened, it certainly behoves thofe with whom the Powers of Government are intrufted to omit nothing which may tend to ftrengthen them. I

I have disclosed my Sentiments to you without Reserve. Let me intreat you to consider them calmly and not to be too sudden in your Determination. If my Principles of Government are right let us adhere to them. With the same Principles our Ancestors were easy and happy for a long Course of Years together, and I know of no Reason to doubt of your being equally easy & happy. The People, influenced by you will forsake their unconstitutional Principles and desist from their Irregularities which are the Consequence of them, they will be convinced that every Thing which is valuable to them depend upon their Connexion with their Parent State, that this Connexion cannot be continued in any other Way than such as will also continue their Dependance upon the supreme Authority of the British Dominions, and that, notwithstanding this Dependance, they will enjoy as great a Proportion of those Rights to which they have a Claim by Nature or as Englishmen as can be enjoyed by a Plantation or Colony.

If I am wrong in my Principles of Government or in the Inferences which I have drawn from them, I wish to be convinced of my Error. Independence I may not allow myself to think that you can possibly have in Contemplation. If you can conceive of any other constitutional Dependance than what I have mentioned, if you are of Opinion that upon any other Principles our Connexion with the State from which we sprang can be continued, communicate your Sentiments to me with the same Freedom and Unreservedness as I have communicated mine to you.

**Absurdity** to admit the several Parts to be at Liberty to obey or disobey according as the Acts of such Authority may be approved or disapproved of by them, for this necessarily works a Dissolution of the Government. The Manner then of obtaining Redress must be by Representations and Endeavours, in such Ways and Forms as the established Rules of the Constitution prescribe or allow in order to make any Matters alledged to be Grievances appear to be really such ; but I conceive it is rather the *meer* Exercise of this Authority which is complained of as a Grievance, than any heavy Burdens which have been bro't upon the People by Means of it.

As Contentment and Order were the happy Effects of a Constitution strengthened by universal Assent and Approbation, so Discontent and Disorder are now the deplorable Effects of a Constitution enfeebled by Contest and Opposition. Besides Divisions and Animosities which disturb the Peace of Towns and Families, the Law in some important Cases cannot have its Course,-- Offenders ordered by Advice of His Majesty's Council to be prosecuted, escape with Impunity and are supported and encouraged to go on offending,—the Authority of Government is bro't into Contempt, and there are but small Remains of that Subordination which was once very conspicuous in this Colony, and which is essential to a well-regulated State.

When the Bands of Government are thus weakened, it certainly behoves those with whom the Powers of Government are intrusted to omit nothing which may tend to strengthen them. I

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If I am wrong in my Principles of Government or in the Inferences which I have drawn from them, I wish to be convinced of my Error. Independence I may not allow myself to think that you can possibly have in Contemplation. If you can conceive of any other constitutional Dependance than what I have mentioned, if you are of Opinion that upon any other Principles our Connexion with the State from which we sprang can be continued, communicate your Sentiments to me with the same Freedom and Unreservedness as I have communicated mine to you.

I have no Desire, Gentlemen, by any Thing I have said to preclude you from seeking Relief, in a constitutional Way, in any Cases in which you have heretofore or may hereafter suppose that you are aggrieved and, although I should not concur with you in Sentiment, I will, notwithstanding, do nothing to lessen the Weight which your Representations may deserve. I have laid before you what I think are the Principles of your Constitution : If you do not agree with me I wish to know your Objections : They may be convincing to me, or I may be able to satisfy you of the Insufficiency of them : In either Case I hope, we shall put an End to those Irregularities, which ever will be the Portion of a Government where the Supreme Authority is controverted, and introduce that Tranquility which seems to have taken Place in most of the Colonies upon the Continent,

The ordinary Business of the Session I will not now particularly point out to you. To the enacting of any new Laws which may be necessary for the more equal and effectual Distribution of Justice, or for giving further Encouragement to our Merchandize, Fishery, and Agriculture, which through the Divine Favour are already in a very flourishing State, or for promoting any Measures which may conduce to the general Good of the Province I will readily give my Assent or Concurrence.

Council Chamber  
6 January, 1773.

T. HUTCHINSON.

ON the 25th of January William Brattle, Harrison Gray, James Pitts, James Humphrey, and Benjamin Greenleaf, Esquires, a Committee of his Majesty's Council, waited on the Governor with an Answer to the foregoing SPEECH, viz.

*May it please your Excellency,*

THE Board have considered your Excellency's Speech to both Houses with the Attention due to the Subject of it ; and we hope with the Candour you are pleased to recommend to them.

We thank you for the Promise, that "if we shall not agree with you in Sentiments, you will with Candour likewise, receive and consider what we may offer in Answer."

Your Speech informs the two Houses that this Government is at present in a disturbed and disordered State ; that the Cause of this Disorder is the unconstitutional Principles adopted by the People in questioning the Supreme Authority of Parliament ; and that the proper Measure for removing the Disorder must be the substituting contrary Principles.

Our Opinion on these Heads, as well as on some others proper to be noticed, will be obvious in the Course of the following Observations.

With

With regard to the present disordered State of the Government, it can have no Reference to Tumults or Riots : from which this Government is as free as any other whatever. If your Excellency meant only that the Province is discontented, and in a State of Uneasiness, we should intirely agree with you ; but you will permit us to say we are not so well agreed in the Cause of it. The Uneasiness, which was a general one throughout the Colonies, began when you inform us the Authority of Parliament was first called in Question, viz. about seven or eight Years ago. Your mentioning that particular Time might have suggested to your Excellency the true Cause of the Origin and Continuance of that Uneasiness.

At that Time the Stamp-Act, then lately made, began to operate : Which with some preceeding and succeeding Acts of Parliament, subjecting the Colonies to Taxes without their Consent, was the original Cause of all the Uneasiness that has happened since ; and has occasioned also an Enquiry into the Nature and Extent of the Authority by which they were made. The late Town-Meetings in several Towns are Instances of both. These are mentioned by your Excellency in Proof of a disordered State : But tho' we do not approve some of their Resolves, we think they had a clear Right to instruct their Representatives on any Subject they apprehended to be of sufficient Importance to require it : which necessarily implies a previous Consideration of, and Expression of their Minds on, that Subject : however mistaken they may be concerning it.

When

When a Community, great or small, think their Rights and Privileges infringed, they will express their Uneasiness in a Variety of Ways : some of which may be highly improper, and criminal. So far as any of an atrocious Nature have taken Place, we would express our Abhorrence of them : and as we have always done hitherto, we shall continue to do, every Thing in our Power to discourage and suppress them. But it is in vain to hope that this can be done effectually so long as the Cause of the Uneasiness, which occasioned them, exists.

Your Excellency will perceive that the Cause you assign is by us supposed to be an Effect derived from the original Cause abovementioned : the Removal of which will remove its Effects.

To obtain this Removal, we agree with you in the Method pointed out in your Speech, where you say, "the Manner of obtaining Redress must be by Representations and Endeavours in such Ways and Forms as the Constitution allows, in order to make any Matters alledged to be Grievances appear to be really such." This Method has been pursued repeatedly. Petitions to Parliament have gone from the Colonies, and from this Colony in particular ; but without Success. Some of them, in a former Ministry, were previously shewn to the Minister, who (as we have been informed) advised the Agents to postpone presenting them to the House of Commons 'till the first reading of the Bill they refer'd to : when being presented, a Rule of the House against receiving Petitions on Money Bills was urged for  
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the rejecting of them, and they were rejected accordingly : And other Petitions for want of Formality, or whatever was the Reason, have had the same Fate. This we mention, not by Way of Censure on that honourable House, but in some Measure to account for the Conduct of those Persons, who despairing of Redress in a constitutional Way, have denied the just Authority of Parliament : concerning which we shall now give our own Sentiments, intermixt with Observations on those of your Excellency.

You are pleased to observe, that “when our Predecessors first took Possession of this Colony, under a Grant and Charter from the Crown of England, it was their Sense, and it was the Sense of the Kingdom, that they were to remain Subject to the Supreme Authority of Parliament.” And to prove that Subjection the greater Part of your Speech is employed.

In order to a right Conception of this Matter, it is necessary to guard against any improper Idea of the term *Supreme* Authority. In your Idea of it your Excellency seems to include *unlimited* Authority : for you are pleased to say, you “know of no Line that can be drawn between the Supreme Authority of Parliament and the total Independence of the Colonies :” But if no such Line can be drawn a Denial of that Authority in any Instance whatever implies and amounts to a Declaration of total Independence. But if Supreme Authority includes unlimited Authority, the Subjects of it are emphatically Slaves : and equally so whether residing in the Colonies or Great-

Great-Britain. And indeed in this Respect all the Nations on Earth, among whom Government exists in any of its Forms, would be alike conditioned : excepting so far as the mere Grace and Favor of their Governors might make a Difference ; “ for from the Nature of Government there must be, as your Excellency has observed, one Supreme Authority over the whole.”

We cannot think, “ that when our Predecessors first took Possession of this Colony it was their Sense, or the Sense of the Kingdom, that they were to remain Subject to the Supreme Authority of Parliament ” in this Idea of it. Nor can we find that this appears from the Charter ; or that such Authority has ever been exercised by Parliament, submitted to by the Colony, or acknowledged by the Legislature.

Supreme or unlimited Authority can with Fitness belong only to the Sovereign of the Universe : And that Fitness is derived from the Perfection of his Nature. — To such Authority, directed by infinite Wisdom & infinite Goodness, is due both active and passive Obedience : Which, as it constitutes the Happiness of rational Creatures, should with Cheerfulness and from Choice be unlimitedly paid by them. — But with Truth this can be said of no other Authority whatever. If then from the Nature and End of Government, the supreme Authority of every Government is limited, the Supreme Authority of Parliament must be limited ; and the Enquiry will be what are the Limits of that Authority with Regard to this Colony ? — To fix them with Precision, to determine the exact

Lines of Right and Wrong in this Case, as in some others, is difficult ; and we have not the Presumption to attempt it. But we humbly hope, that as we are personally and relatively, in our private and public Capacities, for ourselves, for the whole Province, and for all Posterity, so deeply interested in this important Subject, it will not be deemed Arrogance to give some general Sentiments upon it. especially as your Excellency's Speech has made it absolutely necessary.

For this Purpose we shall recur to those Records that contain the main Principles on which the English Constitution is founded ; and from them make such Extracts as are pertinent to the Subject.

Magna Charta declares, " that no Aid shall be imposed in the Kingdom, unless by the Common Council of the Kingdom, except to redeem the King's Person, &c". And that " all Cities, Boroughs, Towns and Ports shall have their Liberties and free Customs ; and shall have the Common Council of the Kingdom concerning the Assessment of their Aids, except in the Cases aforesaid."

The Statute of the 34th of Edward I, de tallagio non concedendo, declares " that no Tallage or Aid should be laid or levied by the King or his Heirs in the Realm, without the Good Will and Assent of the Arch Bishops, Bishops, Earls Barons, Knights, Burgeesses, and other the Freemen of the Commonalty of this Realm."

A Statute of the 25 Ed. 3. enacts " that from thenceforth no Person shall be compelled to make any Loans to the King against his Will, because such Loans were against Reason and the Franchise of the Land."

The Petition of Rights in the 3d of Charles 1st. in which are cited the two foregoing Statutes, declares that by those " Statutes, and other good Laws and Statutes of the Realm, his Majesty's Subjects inherited this Freedom, that they should not be compelled to contribute to any Tax, Tallage, Aid, or other like Charge, not sett by common Consent of Parliament." And the Statute of the 1. of William 3d, for declaring the Rights and Liberties of the Subject and settling the Succession of the Crown declares, " That the levying of Money for or to the Use of the Crown, by Pretence of Prerogative without Grant of Parliament, for longer Time, or in any other Manner than the same is or shall be granted, is illegal."

From these Authorities it appears an essential Part of the English Constitution, that no Tallage or Aid or Tax shall be laid or levied " without the Good Will and Assent of the Freemen of the Commonalty of the Realm." If this could be done without their Assent, their Property would be in the highest Degree precarious: or rather they could not with Fitness be said to have any Property at all. At best they would be only the Holders of it for the Use of the Crown; and the Crown be in Fact the real Proprietor. This would be Vassallage in the extreme; from which the generous Nature of Englishmen has been so  
abhorrent,

abhorrent, that they have bled with Freedom in the Defence of this Part of their Constitution, which has preserved them from it : and influenced by the same Generosity, they can never view with Disapprobation any lawful Measures taken by us for the Defence of our Constitution, which intitles us to the same Rights and Privileges with themselves.

These were derived to us from Common Law, which is the Inheritance of all his Majesty's Subjects ; have been recognized by Acts of Parliament ; and confirmed by the Province Charter, which established its Constitution ; and which Charter has been recognized by Act of Parliament also. This Act was made in the second Year of his late Majesty GEO. II. for the better Preservation of his Majesty's Woods in America : in which is recited the Clause of the said Charter reserving for the Use of the Royal Navy all Trees suitable for Masts : and on this Charter is grounded the succeeding enacting Clause of the Act. And thus is the Charter implicitly confirmed by Act of Parliament.

From all which it appears, that the Inhabitants of this Colony are clearly intitled to All the Rights and Privileges of free and natural Subjects : which certainly must include that most essential one, that no Aid or Taxes be levied on them without their own Consent, signified by their Representatives. But from the Clause in the Charter relative to the Power granted to the General Court to make Laws, not repugnant to the Laws of England, your Excellency draws this Inference,

Inference, that "surely this is by Charter a Reserve of Power and Authority to Parliament to bind us by such Laws, at least, as are made expressly to refer to us, and consequently is a Limitation of the Power given to the General Court."—If it be allowed that by that Clause there was a Reserve of Power to Parliament to bind the Province, it was only by such Laws as were in Being at the Time the Charter was granted : for by the Charter there is nothing appears to make it refer to any Parliamentary Laws, that should be afterwards made, and therefore it will not support your Excellency's Inference.

The Grant of Power to the General Court to make Laws runs thus,— "full Power and Authority, from Time to Time, to make, ordain and establish all Manner of wholesome and reasonable Orders, Laws, Statutes and Ordinances, Directions and Instructions, either with Penalties or without (so as the same be not repugnant or contrary to the Laws of this our Realm of England) as they shall judge to be for the Good and Welfare of our said Province," &c.—We humbly think an Inference very different from your Excellency's, and a very just one too, may be drawn from this Clause, if Attention be given to the Description of the Orders and Laws that were to be made.—I hey were to be wholesome, reasonable and for the Good and Welfare of the Province, and in order that they might be so, it is provided that they be "not repugnant or contrary to the Laws of the Realm," that were then in being : by which Proviso, all the Liberties and Immunities of free and natural Subjects within the  
 Realm

Realm were more effectually secured to the Inhabitants of the Province agreeable to another Clause in the Charter, whereby those Liberties and Immunities are expressly granted to them : and accordingly the Power of the General Court is so far limited, that they shall not make Orders and Laws to take away or diminish those Liberties and Immunities.

This Construction appears to us a just one, and perhaps may appear so to your Excellency if you will please to consider, that by another Part of the Charter effectual Care was taken for preventing the General Assembly passing of Orders and Laws repugnant to, or that in any Way might militate with Acts of Parliament then or since made, or that might be exceptionable in any other Respect whatever : for the Charter reserves to his Majesty the Appointment of the Governor, whose Assent is necessary in the passing of all Orders and Laws : after which they are to be sent to England for the Royal Approbation or Disallowance : by which double Controul effectual Care is taken to prevent the Establishment of any improper Orders or Laws whatever.—Besides, your Excellency is sensible that “ Letters Patent must be construed one Part with another, and all the Parts of them together, so as to make the whole harmonize and agree. But your Excellency’s Construction of the Paragraph empowering the General Court to make Orders and Laws, does by no means harmonize and agree with the Paragraph granting Liberties and Immunities ; and therefore we humbly conceive is not to be admitted : Whereas on the other Construction there is a perfect

fect Harmony and Agreement between them. But supposing your Excellency's Inference just, that by the said former Paragraph (considered by itself) are reserved to Parliament Power and Authority to bind us by Laws made expressly to refer to us. Does it consist with Justice and Equity that it should be considered apart, and urged against the People of this Province with all its Force and without Limitation, and at the same Time the other Paragraph which they thought secured to them the essential Rights and Privileges of free and natural Subjects be rendered of no Validity? If the former Paragraph (in this supposed case) be binding on this People, the latter must be binding on the Crown, which thereby became Guarantee of those Rights and Privileges. Or it must be supposed that one Party is held by a Compact, and the other not: Which Supposition is against Reason and against Law; and therefore destroys the Foundation of the Inference. However, supposing it well founded, it would not from thence follow, that the Charter intended such Laws as should subject the Inhabitants of the Province to Taxes without their Consent: For (as appears above) it grants to them all the Rights and Liberties of free and natural Subjects: Of which one of the most essential is a Freedom from all Taxes not consented to by themselves.—Nor could the Parties, either Grantor or Grantees, intend such Laws. The Royal Grantor could not, because his Grant contradicts such Intention; and because it is inconsistent with every Idea of Royalty and royal Wisdom, to grant what it does not intend to grant. And it will be readily allowed that the Grantees

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could not intend such Laws, not only on account of their Inconsistency with the Grant, but because their Acceptance of a Charter, subjecting them to such Laws, would be voluntary Slavery.

Your Excellency next observes, "that it cannot be contended that by the Liberties of free and natural Subjects is to be understood an Exemption from Acts of Parliament, because not represented there, seeing it is provided by the same Charter, that such Acts shall be in Force."——If the Observations we have made above, and our Reasoning on them be Just, it will appear that no such Provision is made in the Charter, and therefore that the Deductions and Inferences derived from the Supposition of such Provision, are not well founded. And with Respect to Representation in Parliament, as it is one of the essential Liberties of free and natural Subjects, and properly makes those who enjoy it liable to Parliamentary Acts, so in Reference to the Inhabitants of this Province, who are intitled to all the Liberties of such Subjects, the Impossibility of their being duly represented in Parliament, does clearly exempt them from all such Acts at least, as have been or shall be made by Parliament to Tax them : Representation and Taxation being in our Opinion constitutionally inseparable.

"This Grant of Liberties and Immunities, your Excellency informs us, is nothing more than a Declaration and Assurance on the Part of the Crown, that the Place to which our Predecessors were about to remove, was and would be considered as Part of the Dominions of the Crown,  
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and therefore that the Subjects so removing would not become Aliens, but would, both without and within the Colony retain the Liberties and Immunities of free and natural Subjects."

The Dominion of the Crown over this Country before the Arrival of our Predecessors was merely ideal. Their Removal hither realized that Dominion, and has made the Country valuable both to the Crown and Nation, without any Cost to either of them from that Time to this. Even in the most distressed State of our Predecessors, when they expected to be destroyed by a general Conspiracy and Incurfion of the Indian Natives, they had no Assistance from them. This Grant then of Liberties, which is the only Consideration they received from the Crown for so valuable an Acquisition to it, instead of being violated by military Power, or explained away by nice Inferences and Distinctions, ought in Justice, and with a generous Openness and Freedom, to be acknowledged by every Minister of the Crown, and preserved sacred from every Species of Violation.

"If the Plantation be Part of the Dominions of the Crown this Clause in the Charter (granting Liberties and Immunities) does not, your Excellency observes, confer or reserve any Liberties but what would have been enjoyed without it; and what the Inhabitants of every other Colony do enjoy, where they are without a Charter."-----  
Although the Colonies considered as Part of the Dominions of the Crown are intitled to equal Liberties, the Inhabitants of this Colony think it

a Happiness, that those Liberties are confirmed and secured to them by a Charter ; whereby the Honour and Faith of the Crown are pledged, that those Liberties shall not be violated. And for Protection in them we humbly look up to his present Majesty, our rightful and lawful Sovereign, as Children to a Father, able and disposed to assist and relieve them ; humbly imploring his Majesty, that his Subjects of this Province, ever faithful and loyal, and ever accounted such till the Stamp-Act existed, and who in the late War, and upon all other Occasions, have demonstrated that Faithfulness and Loyalty by their vigorous and unexampled Exertions in his Service, may have their Grievances redressed, and be restored to their just Rights.

Your Excellency next observes “ that it is impossible the Rights of English Subjects should be the same in every Respect, in all Parts of the Dominions,” and Instances in the Right of being “ governed by Laws made by Persons, in whose Election they have a Voice.” When “ they remove from the Kingdom to the Plantations where it cannot be enjoyed,” you ask, “ will it not be said, that by this their voluntary Removal, they have relinquished, for a Time at least, one of the Rights of an English Subject, which they might if they pleased, have continued to enjoy, and may again enjoy whensoever they will return to the Place where it can be exercised.”

When English Subjects remove from the Kingdom to the Plantations with their Properties, they not only relinquish that Right *de facto*, but it ought,

ought to cease in the Kingdom *de jure*. But it does not from thence follow, that they relinquish that Right, in Reference to the Plantation or Colony to which they remove. On the contrary, being become Inhabitants of that Colony, and qualified according to the Laws of it, they can exercise that Right equally with the other Inhabitants of it. And this Right, on like Conditions, will travel with them through all the Colonies, wherein a Legislature, similar to that of the Kingdom, is established. And therefore in this Respect, and we suppose in all other essential Respects, it is not impossible the Rights of English Subjects should be the same in all Parts of the Dominions" under a like Form of Legislature.

This Right of Representation is so essential and indispensable in Regard of all Laws for levying Taxes, that a People under any Form of Government destitute of it, is destitute of Freedom — of that Degree of Freedom, for the Preservation of which, Government was instituted; and without which, Government degenerates to Despotism. It cannot therefore be given up, or taken away, without making a Breach on the essential Rights of Nature.

But your Excellency is pleased to say, that they " who claim Exemption as Part of their Rights by Nature, should consider that every Restraint which Men are laid under by a State of Government, is a Privation of Part of their natural Rights. Even in Case of Representation by Election, do they not give up Part of their natural Rights, when they consent to be represented by such Persons

Persons as shall be chosen by the Majority of the Electors, although their own Voices may be for some other Person? And is it not contrary to their natural Rights to be obliged to submit to a Representative for seven Years, or even one Year, after they are dissatisfied with his Conduct, although they gave their Voices for him, when he was elected? This must therefore be considered as an Objection against a State of Government rather than against any particular Form."

Your Excellency's Premises are true, but we do not think your Conclusion follows from them. It is true, that every Restraint of Government is a Privation of natural Right: and the two Cases you have been pleased to mention, may be Instances of that Privation. But as they arise from the Nature of Society and Government; and as Government is necessary to secure other natural Rights infinitely more valuable, they cannot therefore be considered as an Objection either "against a State of Government" or "against any particular Form of it."

Life, Liberty, Property, and the Disposal of that Property with our own Consent, are natural Rights. Will any one put the other in Competition with these, or infer that because those other must be given up in a State of Government, these must be given up also? The Preservation of these Rights is the great End of Government: but is it probable they will be effectually secured by a Governor, which the Proprietors of them have no Part in the Direction of, and over which they have no Power or Influence whatever?  
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Hence is deducible, Representation : which being necessary to preserve these invaluable Rights of Nature, is itself, for that Reason, a natural Right, coinciding with, and running into, that great Law of Nature, Self-Preservation.

Thus have we considered the most material Parts of your Speech, and agreeable to your Desire disclosed to you our Sentiments on the Subject of it.

“ Independence, as your Excellency rightly judged, we have not in Contemplation.” We cannot however adopt “ your Principles of Government,” or acquiesce in all the Inferences you have drawn from them.

We have the highest Respect for that august Body the Parliament, and do not presume to prescribe the exact Limits of its Authority, yet with the Deference that is due to it, we are humbly of Opinion, that as all human Authority in the Nature of it, is and ought to be limited, it cannot constitutionally extend, for the Reasons we have above suggested, to the levying of Taxes in any Form, on his Majesty’s Subjects of this Province.

In such Principles as these “ our Predecessors were easy and happy :” and in the due Operation of such, their Descendants the present Inhabitants of this Province have been easy and happy : but they are not so now. Their Uneasiness and Unhappiness are derived from Acts of Parliament, and Regulations of Government, that lately and  
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within a few Years past have been made. And this Uneasiness and Unhappiness, both in the Cause and Effects of them, though your Excellency *seems* and can only seem, to be of a different Opinion, have extended and continue to extend to all the Colonies throughout the Continent.

It would give us the highest Satisfaction to see Happiness and Tranquility restored to the Colonies ; and especially to see between Great-Britain and them an Union established on such an equitable Basis as neither of them shall ever wish to destroy. We humbly supplicate the Sovereign Arbiter and Superintendent of human Affairs for these happy Events.

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AND

*AND on the 26th of January the House of Representatives sent up to his Excellency their Answer, by Mr. Adams, Mr. Hancock, Mr. Bacon, Col. Bowers, Major Hawley, Capt. Derby, Mr. Phillips, Col. Thayer, and Col. Stockbridge.*

*May it please your Excellency,*

**Y**OUR Excellency's Speech to the General Assembly at the Opening of this Session, has been read with great Attention in this House.

We fully agree with your Excellency, that our own Happiness as well as his Majesty's Service, very much depends upon Peace and Order; and we shall at all Times take such Measures as are consistent with our Constitution and the Rights of the People to promote and maintain them. That the Government at present is in a very disturbed State is apparent! But we cannot ascribe it to the People's having adopted unconstitutional Principles, which seems to be the Cause assigned for it by your Excellency. It appears to us to have been occasioned rather, by the British House of Commons assuming and exercising a Power inconsistent with the Freedom of the Constitution, to give and grant the Property of the Colonists, and appropriate the same without their Consent.

It is needless for us to enquire what were the Principles that induced the Councils of the Nation to so new and unprecedented a Measure. But when the Parliament by an Act of their own expressly

pressly declared, that the King, Lords and Commons of the Nation "have, ever had, and of Right ought to have full Power and Authority to make Laws and Statutes of sufficient Force and Validity to bind the Colonies and People of America, Subjects of the Crown of Great-Britain, in all Cases whatever," and in Consequence hereof another Revenue Act was made, the Minds of the People were filled with Anxiety, and they were justly alarmed with Apprehensions of the total Extinction of their Liberties.

The Result of the free Enquiries of many Persons into the Right of the Parliament to exercise such a Power over the Colonies, seems in your Excellency's Opinion, to be the Cause of what you are pleased to call the present "disturbed State of the Government;" upon which you "may not any longer consistent with your Duty to the King, and your Regard to the Interest of the Province, delay communicating your Sentiments." But that the Principles adopted in Consequence hereof, are unconstitutional, is a Subject of Enquiry. We know, of no such Disorders arising therefrom as are mentioned by your Excellency. If Grand Jurors have not on their Oaths found such Offences, as your Excellency with the Advice of his Majesty's Council have *ordered* to be prosecuted, it is to be presumed they have followed the Dictates of good Conscience. *They* are the constitutional Judges of these Matters; and it is not to be supposed, that moved from corrupt Principles, they have suffered Offenders to escape a Prosecution, and thus supported and encouraged them to go on offending.

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If any Part of Authority, shall in an unconstitutional Manner, interpose in any Matter, it will be no wonder if it be brought into Contempt; to the lessening or confounding of that Subordination which is necessary to a well regulated State. Your Excellency's Representation that the Bands of Government are weakened, we humbly conceive to be without good Grounds; though we must own the heavy Burthens unconstitutionally brought upon the People have been and still are universally and very justly complained of as a Grievance.

You are pleased to say, that "when our Predecessors first took Possession of this Plantation or Colony, under a Grant and Charter from the Crown of England, it was their Sense, and it was the Sense of the Kingdom, that they were to remain subject to the Supreme Authority of Parliament;" whereby we understand your Excellency to mean in the Sense of the Declaratory Act of Parliament aforementioned, in all Cases whatever. And indeed it is difficult, if possible, to draw a Line of Distinction between the universal Authority of Parliament over the Colonies, and no Authority at all. It is therefore necessary for us to enquire how it appears, for your Excellency has not shown it to us, that when or at the Time that our Predecessors took Possession of this Plantation or Colony, under a Grant and Charter from the Crown of England, it was *their Sense*, and the Sense of the *Kingdom*, that they were to remain subject to the Supreme Authority of Parliament. In making this Enquiry, we shall, according to your Excellency's Recommendation,

treat the Subject with Calmness and Candor, and also with a due Regard to Truth.

Previous to a direct Consideration of the Charter granted to this Province or Colony, and the better to elucidate the true Sense and Meaning of it, we would take a View of the State of the English North American Continent at the Time when and after Possession was first taken of any Part of it, by the Europeans. It was then possessed by Heathen and Barbarous People, who had nevertheless all that Right to the Soil and Sovereignty in and over the Lands they possessed, which God had originally given to Man. Whether their being Heathen, inferred any Right or Authority to Christian Princes, a Right which had long been assumed by the Pope, to dispose of their Lands to others, we will leave to your Excellency or any one of Understanding and impartial Judgment to consider. It is certain they had in no other Sense forfeited them to any Power in Europe. Should the Doctrine be admitted that Discovery of Lands owned and possessed by Pagan People, gives to any Christian Prince a Right and Title to the Dominion and Property, still it is vested in the Crown alone. It was an Acquisition of Foreign Territory, not annexed to the Realm of England, and therefore at the absolute Disposal of the Crown. For we take it to be a settled Point, that the King has a constitutional Prerogative to dispose of and alienate any Part of his Territories not annexed to the Realm. In the Exercise of this Prerogative, Queen Elizabeth granted the first American Charter; and claiming a Right by Virtue of Discovery, then supposed

to be valid, to the Lands which are now possessed by the Colony of Virginia, she conveyed to Sir Walter Rawleigh, the Property, Dominion and Sovereignty thereof, to be held of the Crown by Homage, and a certain Render, without any Reservation to herself of any Share in the Legislative and Executive Authority. After the Attainder of Sir Walter, King James the First created two Virginia Companies, to be governed each by Laws transmitted to them by his Majesty, and not by the Parliament, with Power to establish and cause to be made a Coin to pass current among them; and vested with all Liberties, Franchises and Immunities within any of his other Dominions, to all Intents and Purposes, as if they had been abiding, and born *within the Realm*. A Declaration similar to this is contained in the first Charter of this Colony, and in those of other American Colonies; which shows that the Colonies were not intended or considered to be within the Realm of England, though within the Allegiance of the English Crown. After this, another Charter was granted by the same King James, to the Treasurer and Company of Virginia, vesting them with full Power and Authority, to make, ordain and establish all Manner of Orders, Laws, Directions, Instructions, Forms and Ceremonies of Government and Magistracy, fit and necessary, and the same to abrogate, &c. without any Reservation for securing their Subjection to the Parliament and future Laws of England. A third Charter was afterwards granted by the same King to the Treasurer and Company of Virginia, vesting them with Power and Authority to make Laws, with an Addition of this Clause, "so always

ways that the same be not contrary to the Laws and Statutes of this our Realm of England." The same Clause was afterwards copied into the Charter of this and other Colonies, with certain Variations, such as that these Laws should be "consonant to Reason," "not repugnant to the Laws of England," "as nearly as conveniently may be to the Laws, Statutes and Rights of England," &c. These Modes of Expression convey the same Meaning, and serve to show an Intention that the Laws of the Colonies should be as much as possible, conformant in the Spirit of them to the Principles and fundamental Laws of the English Constitution, its Rights and Statutes then in Being; and by no Means to bind the Colonies to a Subjection to the Supreme Authority of the English Parliament. And that this is the true Intention, we think it further evident from this Consideration, that no Acts of any Colony Legislative, are ever brought into Parliament for Inspection there, though the Laws made in some of them, like the Acts of the British Parliament are laid before the King for his Assent or Disallowance.

We have brought the first American Charters into View, and the State of the Country when they were granted, to show that the Right of disposing of the Lands was in the Opinion of those Times vested solely in the Crown—that the several Charters conveyed to the Grantees, who should settle upon the Territories therein granted, all the Powers necessary to constitute them free and distinct States—and that the fundamental Laws of the English Constitution should be the certain  
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and established Rule of Legislation, to which the Laws to be made in the several Colonies were to be as nearly as convenient y might be, conformable or similar ; which was the true Intent and Import of the Words, “ not repugnant to the Laws of England,” “ consonant to Reason,” and other variant Expressions in the different Charters. And we would add, that the King in some of the Charters reserves the Right to judge of the Consonance and Similarity of their Laws with the English Constitution to himself, and not to the Parliament ; and in Consequence thereof to affirm, or within a limited Time, disallow them.

These Charters, as well as that afterwards granted to Lord Baltimore, and other Charters, are repugnant to the Idea of Parliamentary Authority : And to suppose a Parliamentary Authority over the Colonies under such Charters, would necessarily induce that Solecism in Politics *Imperium in Imperio*. And the King’s repeatedly exercising the Prerogative of disposing of the American Territory by such Charters, together with the Silence of the Nation thereupon, is an Evidence that it was an acknowledged Prerogative.

But further to show the Sense of the English Crown and Nation that the American Colonists and our Predecessors in particular, when they first took Possession of this Country by a Grant and Charter from the Crown, did not remain subject to the Supreme Authority of Parliament, we beg Leave to observe ; that when a Bill was offered by the two Houses of Parliament to King Charles the First, granting to the Subjects of England the free

free Liberty of Fishing on the Coast of America, he refused his Royal Assent, declaring as a Reason, that "the Colonies were *without the Realm and Jurisdiction of Parliament.*"

In like Manner, his Predecessor James the First, had before declared upon a similar Occasion, that *America was not annexed to the Realm*, and it was not fitting that Parliament should make Laws for those Countries." This Reason was, not secretly, but openly declared in Parliament. If then the Colonies were not annexed to the Realm, at the Time when their Charters were granted, they never could be afterwards, without their own special Consent, which has never since been had, or even asked. If they are not now annexed to the Realm, they are not a Part of the Kingdom, and consequently not subject to the Legislative Authority of the Kingdom. For no Country, by the Common Law was subject to the Laws or to the Parliament, but the Realm of England.

We would if your Excellency pleases, subjoin an Instance of Conduct in King Charles the Second, singular indeed, but important to our Purpose; who, in 1679, framed an Act for a permanent Revenue for the Support of Virginia, and sent it there by Lord Colpepper, the Governor of that Colony; which was afterwards passed into a Law, and "*Enacted by the King's most excellent Majesty, by and with the Consent of the General Assembly of Virginia.*" If the King had judged that Colony to be a Part of the Realm, he would not, nor could he consistently with Magna Charta, have placed himself at the Head of, and joined  
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with any Legislative Body in making a Law to Tax the People there, other than the Lords and Commons of England.

Having taken a View of the several Charters of the first Colony in America, if we look into the old Charter of this Colony, we shall find it to be grounded on the same Principle : That the Right of disposing the Territory granted therein was vested in the Crown. as being that Christian Sovereign who first discovered it, when in the Possession of Heathen ; and that it was considered as being not within the Realm, but only within the Fee and Seignory of the King. As therefore it was without the Realm of England, must not the King, if he had designed that the Parliament should have had any Authority over it, have made a special Reservation for that Purpose ? which was not done.

Your Excellency says, it appears from the Charter itself, to have been the Sense of our Predecessors who first took Possession of this Plantation or Colony, that they were to remain subject to the Authority of Parliament. You have not been pleased to point out to us how this appears from the Charter, unless it be in the Observation you make on the above-mentioned Clause, viz. " That a favourable Construction has been put upon this Clause, when it has been allowed to intend such Laws of England only as are expressly made to respect us," which you say is by Charter a Reserve of Power and Authority to Parliament to bind us by such Laws at least as are made expressly to refer to us, and consequently is

a Limitation of the Power given to the General Court." But we would still recur to the Charter itself, and ask your Excellency, How this appears from thence to have been the Sense of our Predecessors ? Is any Reservation of Power and Authority to Parliament thus to bind us, expressed or implied in the Charter ? It is evident, that King Charles the first, the very Prince who granted it, as well as his Predecessor, had no such Idea of the supreme Authority of Parliament over the Colony, from their Declarations before recited. Your Excellency will then allow us further to ask, by what Authority in Reason or Equity the Parliament can enforce a Construction so *unfavourable* to us. *Quod ab initio injustum est, nullum potest habere juris effectum*, said Grotius. Which with Submission to your Excellency may be rendered thus, *Whatever is originally in its Nature wrong, can never be satisfied or made right by Reputation and Use.*

In solemn Agreements subsequent Restrictions ought never to be allowed. The celebrated Author whom your Excellency has quoted, tells us that "neither the one or the other of the interested or contracting Powers hath a right to interpret at Pleasure." This we mention to show, even upon a Supposition that the Parliament had been a Party to the Contract, the Invalidity of any of its subsequent Acts, to explain any Clause in the Charter ; more especially to restrict or make void any Clause granted therein to the General Court. An Agreement ought to be interpreted "in such a Manner as that it may have *its Effect* : " But if your Excellency's Interpretation

tion of this Clause is just, "that it is a Reserve of Power and Authority to Parliament to bind us by such Laws as are made expressly to refer to us," it is not only "a Limitation of the Power given to the General Court" to Legislate, but it may whenever the Parliament shall think fit, render it of *no Effect* ; for it puts it in the Power of Parliament to bind us by as many Laws as they please, and even to restrain us from making any Laws at all. If your Excellency's Assertions in this and the next succeeding Part of your Speech were well grounded, the Conclusion would be undeniable, that the Charter even in this Clause, "does not confer or reserve any Liberties" worth enjoying, "but what would have been enjoyed without it ;" saving that within any of his Majesty's Dominions we are to be considered barely as *not Aliens*. You are pleased to say, it cannot "be contended that by the Liberties of free and natural Subjects" (which are expressly granted in the Charter to all Intents, Purposes, and Constructions whatever) "is to understood an Exemption from Acts of Parliament because not represented there ; seeing it is provided by the same Charter that such Acts shall be in Force." If, says an eminent Lawyer, "the King grants to the Town of D. the same Liberties which London has, this shall be intended the like Liberties." A Grant of the Liberties of free and natural Subjects is equivalent to a Grant of the same Liberties. And the King in the first Charter to this Colony expressly grants that it shall be construed, reputed and adjudged in all Cases most favourably on the Behalf and for the Benefit and Behoof of the said Governor and Company and their Successors—

cessors—any Matter, Cause or Thing whatsoever to the contrary notwithstanding.” It is one of the Liberties of free and natural Subjects, born and abiding within the Realm, to be governed as your Excellency observes, “by Laws made by Persons in whose Elections they from Time to Time have a Voice.” This is an essential Right. For nothing is more evident, than that any People who are subject to the unlimited Power of another, must be in a State of abject Slavery. It was easily and plainly foreseen that the Right of Representation in the English Parliament could not be exercised by the People of this Colony. It would be impracticable, if consistent with the English Constitution. And for this Reason, that this Colony might have and enjoy all the Liberties and Immunities of free and natural Subjects within the Realm, as stipulated in the Charter, it was necessary, and a Legislative was accordingly constituted within the Colony; one Branch of which consists of Representatives chosen by the People, to make all Laws, Statutes, Ordinances, &c. for the well ordering and governing the same, not repugnant to the Laws of England, or, as nearly as conveniently might be, agreeable to the fundamental Laws of the English Constitution. We are therefore still at a Loss to conceive where your Excellency finds it “*provided* in the same Charter, that such Acts,” viz. Acts of Parliament made expressly to refer to us, “shall be in Force” in this Province. There is nothing to this Purpose expressed in the Charter, or in our Opinion even implied in it. And surely it would be very absurd, that a Charter, which is evidently formed upon a Supposition and Intention, that a Colony

Colony is and should be considered as not within the Realm ; and declared by the very Prince who granted it, to be not within the Jurisdiction of Parliament, should yet *provide*, that the Laws which the same Parliament should make expressly to refer to that Colony, should be in Force therein. Your Excellency is pleased to ask, " Does it follow that the Government by their (our Ancestors) Removal from one Part of the Dominions to another, loses its Authority over that Part to which they remove : And that they were freed from the Subjection they were under before ?" We answer, if that Part of the King's Dominions to which they removed was not then a Part of the Realm, and was never annexed to it, the Parliament lost no Authority over it, having never had such Authority ; and the Emigrants were consequently freed from the Subjection they were under before their Removal : The Power and Authority of Parliament being constitutionally confined within the Limits of the Realm and the Nation collectively, of which alone it is the Representing and Legislative Assembly. Your Excellency further asks, " Will it not rather be said, that by this their voluntary Removal, they have relinquished for a Time at least, one of the Rights of an English Subject, which they might if they pleased have continued to enjoy, and may again enjoy, whenever they return to the Place where it can be exercised.?" To which we answer ; They never did relinquish the Right to be governed by Laws made by Persons in whose Election they had a Voice. The King stipulated with them that they should have and enjoy all the Liberties of free and natural Subjects born within

in the Realm, to all Intents, Purposes and Constructions whatsoever; that is, that they should be as free as those who were to abide within the Realm: Consequently he stipulated with them that they should enjoy and exercise this most essential Right, which discriminates Freemen from Vassals, uninterruptedly in its full Sense and Meaning; and they did and ought still to exercise it, without the Necessity of returning, for the Sake of exercising it, to the Nation or State of England.

We cannot help observing, that your Excellency's Manner of Reasoning on this Point, seems to us to render the most valuable Clauses in our Charter unintelligible: As if Persons going from the Realm of England to inhabit in America, should hold and exercise there a certain Right of English Subjects; but in Order to exercise it in such Manner as to be of any Benefit to them, they must *not inhabit* there, but return to the Place where alone it can be exercised. By such Construction, the Words of the Charter can have no Sense or Meaning. We forbear remarking upon the Absurdity of a Grant to Persons born within the Realm, of the same Liberties which would have belonged to them if they had been born within the Realm.

Your Excellency is disposed to compare this Government to the Variety of Corporations formed within the Kingdom, with Power to make and execute By-Laws, &c. And because they remain subject to the Supreme Authority of Parliament, to infer that this Colony is also subject to the same Authority:

Authority : This Reasoning appears to us not just. The Members of those Corporations are Resident within the Kingdom ; and Residence subjects them to the Authority of Parliament, in which they are also represented : Whereas the People of this Colony are not Resident within the Realm. The Charter was granted with the express Purpose to induce them to reside without the Realm ; consequently they are not represented in Parliament there. But we would ask your Excellency ; Are any of the Corporations formed within the Kingdom, vested with the Power of erecting other subordinate Corporations ? Of enacting and determining what Crimes shall be Capital ? And constituting Courts of Common Law with all their Officers, for the hearing, trying and punishing capital Offenders with Death ? These and many other Powers vested in this Government, plainly show that it is to be considered as a Corporation in no other Light, than as every State is a Corporation. Besides, Appeals from the Courts of Law here, are not brought before the House of Lords ; which shows that the Peers of the Realm are not the Peers of America : But all such Appeals are brought before the King in Council, which is a further Evidence that we are not within the Realm.

We conceive enough has been said to convince your Excellency, that “ when our Predecessors first took Possession of this Plantation or Colony by a Grant and Charter from the Crown of England, it *was not* and never had been the Sense of the Kingdom, that they were to remain subject to the Supreme Authority of Parliament. We will now  
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with your Excellency's Leave, enquire what ~~was~~ the Sense of our Ancestors of this very important Matter.

And as your Excellency has been pleased to tell us, you have not discovered that the Supreme Authority of Parliament has been called in Question even by private and particular Persons, until within seven or eight Years past ; except about the Time of the Anarchy and Confusion in England, which preceeded the Restoration of King Charles the Second ; we beg leave to remind your Excellency of some Parts of your own History of Massachusetts-Bay. Therein we are informed of the Sentiments of " Persons of Influence " after the Restoration, from which the Historian tells us, some Parts of their Conduct, that is of the General Assembly, " may be pretty well accounted for." By the History it appears to have been the Opinion of those Persons of Influence, " that the Subjects of any Prince or State had a natural Right to remove to any other State or to another Quarter of the World, unless the State was weakened or exposed by such Remove ; and even in that Case, if they were deprived of the Right of all Mankind, Liberty of Conscience, it would justify a Separation, and *upon their Removal their Subjection determined and ceased.*" That " the Country to which they had removed, was claimed and possessed by independent Princes, whose Right to the Lordship and Sovereignty thereof had been acknowledged by the Kings of England," an Instance of which is quoted in the Margin ; " That they themselves had actually purchased for valuable Consideration, not  
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only the Soil, but the Dominion, the Lordship and Sovereignty of those Princes;" without which Purchase, "in the Sight of God and Men, they had no Right or Title to what they possessed. That they had received a Charter of Incorporation from the King, from whence arose a new Kind of Subjection, namely, "a voluntary, civil Subjection;" and by this Compact "they were *to be governed by Laws made by themselves.*" Thus it appears to have been the Sentiments of *private* Persons, though Persons by whose Sentiments the public Conduct was influenced, that their Removal was a justifiable Separation from the Mother State, upon which their Subjection to that State determined and ceased. The Supreme Authority of Parliament, if it had then ever been asserted, must surely have been called in Question, by Men who had advanced such Principles as these.

The first Act of Parliament made expressly to refer to the Colonies, was after the Restoration. In the Reign of King Charles the Second, several such Acts passed. And the same History informs us there was a Difficulty in conforming to them; and the Reason of this Difficulty is explained in a Letter of the General Assembly to their Agent, quoted in the following Words, "They apprehended them to be an Invasion of the Rights Liberties and Properties of the Subjects of his Majesty in the Colony. *they not being represented in Parliament,* and according to the usual Sayings of the Learned in the Law, the Laws of England were bounded within the four Seas, *and did not reach America:* However as

his Majesty had signified his Pleasure that those Acts should be observed in the Massachusetts, they had made Provision by a Law of the Colony that they should be strictly attended." Which Provision by a Law of their own would have been superfluous, if they had admitted the Supreme Authority of Parliament. In short, by the same History it appears that those Acts of Parliament as such were disregarded; and the following Reason is given for it; "It seems to have been a *general* Opinion that Acts of Parliament had no other Force, than what they derived from Acts made by the General Court to establish and confirm them."

But still further to show the Sense of our Ancestors respecting this Matter, we beg leave to recite some Parts of a Narrative presented to the Lords of Privy Council by Edward Randolph, in the Year 1676, which we find in your Excellency's Collection of Papers lately published. Therein it is declared to be the Sense of the Colony, "that no Law is in Force or Esteem there, but such as are made by the General Court; and therefore it is accounted a Breach of their Privileges, and a Betraying of the Liberties of their Common-wealth, to urge the Observation of the Laws of England." And further, "That no Oath shall be urged or required to be taken by any Person, but such Oath as the General Court hath considered, allowed and required." And further, "there is no notice taken of the Act of Navigation, Plantation or any other Laws made in England for the Regulation of Trade." "That the Government would make the World believe they

they are a free State, and do act in all Matters accordingly." Again, " These Magistrates ever reserve to themselves a Power to alter, evade and disannul any Law or Command, not agreeing with their Humour or the absolute Authority of their Government, acknowledging no Superior." And further, " He the (Governor) freely declared to me, that the Laws made by your Majesty and your Parliament, obligeth them in nothing, but what consists with the Interests of that Colony, that the Legislative Power and Authority is and abides in them *solely*." And in the same Mr. Randolph's Letter to the Bishop of London, July 14, 1682, he says, " This *Independency* in Government, claimed and daily practised." And your Excellency being *then* sensible that this was the Sense of our Ancestors, in a Marginal Note in the same Collection of Papers, observes, that " this, viz. the Provision made for observing the Acts of Trade, " is very extraordinary, for this Provision was an Act of the Colony declaring the Acts of Trade shall be in Force there." Although Mr. Randolph was very unfriendly to the Colony, yet as his Declarations are concurrent with those recited from your Excellency's History, we think they may be admitted for the Purpose for which they are now brought.

Thus we see, from your Excellency's History and Publications, the Sense our Ancestors had of the Jurisdiction of Parliament under the first Charter. Very different from that which your Excellency in your *Speech* apprehends it to have been.

It appears by Mr. Neal's History of New-England, that the Agents who had been employed by the Colony to transact its Affairs in England at the Time when the present Charter was granted, among other Reasons gave the following for their Acceptance of it, viz. "The General Court has with the King's Approbation as much Power in New-England, as the King and Parliament have in England; they have all English Privileges, and can be touched by *no Law*, and by *no Tax* but of their own making." This is the earliest Testimony that can be given of the Sense our Predecessors had of the Supreme Authority of Parliament under the present Charter. And it plainly shows, that they, who having been freely conversant with those who framed the Charter, must have well understood the Design and Meaning of it, supposed that the Terms in our Charter "full Power and Authority," intended and were considered as a *sole* and exclusive Power, and that there was no "Reserve in the Charter to the Authority of Parliament, to bind the Colony" by any Acts whatever.

Soon after the Arrival of the Charter, viz. in 1692, your Excellency's History informs us, "the first Act" of this Legislative was a Sort of Magna Charta, asserting and setting forth their general Privileges, and this Clause was among the rest, "No Aid, Tax, Tallage, Assessment, Custom, Loan, Benevolence or Imposition whatever, shall be laid, assess'd, impos'd or levied on any of their Majesty's Subjects, or their Estates, on any Pretence whatever, but by the Act and Consent of the Governor, Council and Representatives

tatives of the People assembled in General Court." And though this Act was disallowed, it serves to show the Sense which the General Assembly contemporary with the granting the Charter had of their sole and exclusive Right to Legislate for the Colony. The History says, "the other Parts of the Act were copied from Magna Charta;" by which we may conclude that the Assembly then construed the Words "not repugnant to the Laws," to mean, conformable to the fundamental Principles of the English Constitution. And it is observable that the Lords of Privy Council, so lately as in the Reign of Queen Anne, when several Laws enacted by the General Assembly, were laid before her Majesty for her Allowance, interpreted the Words in this Charter, "not repugnant to the Laws of England," by the Words "as nearly as conveniently may be agreeable to the Laws and Statutes of England." And her Majesty was pleased to disallow those Acts, not because they were repugnant to any Law or Statute of England, made expressly to refer to the Colony; but because divers Persons, by Virtue thereof, were punished without being tried by their Peers in the ordinary "Courts of Law," and "by the ordinary Rules and known Methods of Justice;" contrary to the express Terms of Magna Charta, which was a Statute in Force at the Time of granting the Charter, and declaratory of the Rights and Liberties of the Subjects within the Realm.

You are pleased to say, that "our Provincial or Local Laws have in numerous Instances had Relation to Acts of Parliament made to respect  
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the Plantations and this Colony in particular." The Authority of the Legislature, says the same Author who is quoted by your Excellency, "does not extend so far as the Fundamentals of the Constitution." "They ought to consider the Fundamental Laws as sacred, if the Nation has not in very exprefs Terms, given them the Power to change them. For the Constitution of the State ought to be fixed ; And since that was first established by the Nation, which afterwards trusted certain Persons with the Legislative Power, the fundamental Laws are excepted from their Commission." Now the Fundamentals of the Constitution of this Province are stipulated in the Charter ; the Reasoning therefore in this Case holds equally good. Much less then ought any Acts or Doings of the General Assembly, however numerous, to neither of which your Excellency has pointed us, which barely relate to Acts of Parliament made to respect the Plantations in general, or this Colony in particular, to be taken as an Acknowledgment of this People, or even of the Assembly, which inadvertently passed those Acts, that we are subject to the Supreme Authority of Parliament. And with still less Reason are the Decisions in the Executive Courts to determine this Point. If they have adopted that "as Part of the Rule of Law," which in Fact is not, it must be imputed to Inattention or Error in Judgment, and cannot justly be urged as an Alteration or Restriction of the Legislative Authority of the Province.

Before we leave this Part of your Excellency's Speech, we would observe, that the great Design  
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of our Ancestors, in leaving the Kingdom of England, was to be freed from a Subjection to its spiritual Laws and Courts, and to worship God according to the Dictates of their Consciences. Your Excellency in your History observes, that their Design was "to obtain for themselves and their Posterity the Liberty of worshipping God in such Manner as appeared to them most agreeable to the sacred Scriptures." And the General Court themselves declared in 1651, that "seeing just Cause to fear the Persecution of the then Bishop, and High Commission for not conforming to the Ceremonies of those under their Power, they thought it their safest Course, to get to this Outside of the World, out of their View and *beyond their Reach.*" But if it had been their Sense, that they were still to be subject to the Supreme Authority of Parliament, they must have known that their Design might and probably would be frustrated; that the Parliament, especially considering the Temper of those Times, might make what ecclesiastical Laws they pleased, expressly to refer to them, and place them in the same Circumstances with Respect to religious Matters, to be relieved from which was the Design of their Removal. And we would add, that if your Excellency's Construction of the Clause in our present Charter is just, another Clause therein, which provides for Liberty of Conscience for all Christians except Papists, may be rendered void by an Act of Parliament made to refer to us, requiring a Conformity to the Rites and Mode of Worship in the Church of England, or any other.

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Thus we have endeavoured to shew the Sense of the People of this Colony under both Charters; and if there have been in any late Instances a Submission to Acts of Parliament, it has been in our Opinion, rather from Inconsideration or a Reluctance at the Idea of contending with the Parent State, than from a Conviction or Acknowledgement of the Supreme Legislative Authority of Parliament.

Your Excellency tells us, "you know of no Line that can be drawn between the Supreme Authority of Parliament and the total Independence of the Colonies." If there be no such Line, the Consequence is, either that the Colonies are the Vassals of the Parliament, or, that they are totally Independent. As it cannot be supposed to have been the Intention of the Parties in the Compact, that we should be reduced to a State of Vassallage, the Conclusion is, that it was their Sense, that we were thus Independent. "It is impossible, your Excellency says, that there should be two independent Legislatures in one and the same State." May we not then further conclude, that it was their Sense that the Colonies were by their Charters made distinct States from the Mother Country? Your Excellency adds, "For although there may be but one Head, the King, yet the two Legislative Bodies will make two Governments as distinct as the Kingdoms of England and Scotland before the Union." Very true, may it please your Excellency; and if they interfere not with each other, what hinders but that being united in one Head and common Sovereign, they may live happily in that Connection.

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and mutually support and protect each other ? Notwithstanding all the Terrors which your Excellency has pictured to us as the Effects of a total Independence, there is more Reason to dread the Consequences of absolute uncontrouled Supreme Power, whether of a Nation or a Monarch, than those of a total Independence. It would be a Misfortune “ to know by Experience, the Difference between the Liberties of an English Colonist and those of the Spanish, French and Dutch : And since the British Parliament has passed an Act which is executed even with Rigour, though not voluntarily submitted to, for raising a Revenue, and appropriating the same without the Consent of the People who pay it, and have claimed a Power making such Laws as they please to order and govern us, your Excellency will excuse us in asking, whether you do not think we already experience too much of such a Difference, and have not Reason to fear we shall soon be reduced to a worse Situation than that of the Colonies of France, Spain or Holland ?

If your Excellency expects to have the Line of Distinction between the Supreme Authority of Parliament, and the total Independence of the Colonies drawn by us, we would say it would be an arduous Undertaking ; and of very great Importance to all the other Colonies : And therefore, could we conceive of such a Line, we should be unwilling to propose it, without their Consent in Congress.

To conclude, These are great and profound Questions. It is the Grief of this House, that by the ill Policy of a late injudicious Administration, America has been driven into the Contemplation of them. And we cannot but express our Concern, that your Excellency by your Speech has reduced us to the unhappy Alternative, either of appearing by our Silence to acquiesce in your Excellency's Sentiments, or of thus freely discussing this Point.

After all that we have said, we would be far from being understood to have in the least abated that just Sense of Allegiance which we owe to the King of Great-Britain, our rightful Sovereign : And should the People of this Province be left to the free and full Exercise of all the Liberties and Immunities granted to them by Charter, there would be no Danger of an Independance on the Crown. Our Charters reserve great Power to the Crown in its Representative, fully sufficient to balance, analagous to the English Constitution, all the Liberties and Privileges granted to the People. All this your Excellency knows full well—And whoever considers the Power and Influence, in all their Branches, reserved by our Charter to the Crown, will be far from thinking that the Commons of this Province are too Independent.

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*On Tuesday the 16th of February his Excellency was pleased to deliver the following Speech to both Houses in the Council Chamber, v.z.*

*Gentlemen of the Council, and*

*Gentlemen of the House of Representatives,*

**T**HE Proceedings of such of the Inhabitants of the Town of Boston as assembled together and passed and published their Resolves or Votes as the Act of the Town at a legal Town-Meeting, denying in the most express Terms the Supremacy of Parliament, and inviting every other Town and District in the Province to adopt the same Principle and to establish Committees of Correspondence to consult upon proper Measures to maintain it, and the Proceedings of divers other Towns, in Consequence of this Invitation, appeared to me to be so unwarrantable and of such a dangerous Nature and Tendency, that I thought myself bound to call upon you in my Speech at Opening the Session, to join with me in discountenancing and bearing a proper Testimony against such Irregularities and Innovations.

I stated to you fairly and truly, as I conceived, the Constitution of the Kingdom and of the Province so far as relates to the Dependence of the latter upon the former; and I desired you, if you differed from me in Sentiments, to shew me with Candour my own Errors, and to give

your Reasons in support of your Opinions, so far as you might differ from me. I hoped that you would have considered my Speech by your joint Committees, and have given me a joint Answer ; but, as the House of Representatives have declined that Mode of Proceeding, and as your Principles in Government are very different, I am obliged to make separate and distinct replies.

I shall first apply myself to you,

*Gentlemen of the Council,*

The two first Parts of your Answer, which Respect the Disorders occasioned by the Stamp-Act and the general Nature of Supreme Authority, do not appear to me to have a Tendency to invalidate any Thing which I have said in my Speech ; for, however the Stamp-Act may have been the immediate Occasion of any Disorders, the Authority of Parliament was notwithstanding denied in Order to justify or excuse them. And, for the Nature of the Supreme Authority of Parliament, I have never given you any Reason to suppose that I intended a more absolute Power in Parliament, or a greater Degree of active or passive Obedience in the People, than what is founded in the Nature of Government, let the Form of it be what it may. I shall, therefore, pass over those Parts of your Answer without any other Remark. I would also have saved you the Trouble of all those Authorities which you have brought to shew, that all Taxes upon English Subjects must be levied by Virtue of the Act not of the King alone but in Conjunction with

with the Lords and Commons, for I should very readily have allowed it ; and I should as readily have allowed that all other Acts of Legislation must be passed by the same joint Authority, and not by the King alone.

Indeed, I am not willing to continue a Controversy with you upon any other Parts of your Answer. I am glad to find that Independence is what you have not in Contemplation ; and that you will not presume to prescribe the exact Limits of the Authority of Parliament ; only, as with due Deference to it, you are humbly of Opinion, that, as all human Authority in the Nature of it is and ought to be limited, it cannot constitutionally extend, for the Reasons you have suggested, to the levying of Taxes in any Form on his Majesty's Subjects of this Province.

I will only observe, that your Attempts to draw a Line as the Limits of the Supreme Authority in Government, by distinguishing some natural Rights as more peculiarly exempt from such Authority than the rest, rather tend to evince the Impracticability of drawing such a Line ; and that some Parts of your Answer seem to infer a Supremacy in the Province at the same Time that you acknowledge the Supremacy of Parliament, for otherwise the Rights of the Subjects cannot be the same in all essential Respects, as you suppose them to be, in all Parts of the Dominions, “ under a like Form of Legislature.”

From these, therefore, and other Considerations I cannot help flattering myself, that, upon  
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more mature Deliberation and in Order to a more consistent Plan of Government, you will chuse rather to doubt of the Expediency of Parliament's Exercising its Authority in Cases that may happen, than to limit the Authority itself, especially as you agree with me in the proper Method of obtaining a Redress of Grievances by constitutional Representations, which cannot well consist with a Denial of the Authority to which the Representations are made ; and, from the best Information I have been able to obtain, the Denial of the Authority of Parliament, expressly or by Implication in those Petitions to which you refer was the Cause of their not being admitted, and not any Advice given by the Minister to the Agents of the Colonies.

I must enlarge and be much more particular in my Reply to you,

*Gentlemen of the House of Representatives,*

I shall take no Notice of that Part of your Answer which attributes the Disorders of the Province to an undue Exercise of the Power of Parliament, because you take for granted, what can by no Means be admitted, that Parliament had exercised its Power without just Authority. The Sum of your Answer so far as it is pertinent to my Speech, is this. -

You alledge that the Colonies were an Acquisition of Foreign Territory not annexed to the Realm of England, and therefore at the *absolute* Disposal of the Crown ; the King having, as you  
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take it, a constitutional Right to dispose of and *alienate* any Part of his Territories not annexed to the Realm—that Queen *Elizabeth* accordingly conveyed the Property, *Dominion* and *Sovereignty* of *Virginia* to Sir *Walter Raleigh* to be held of the Crown by *Homage* and a certain *Rend*, without reserving any Share in the Legislative and Executive Authority—that the subsequent Grants of America were similar in this Respect, that they were without any Reservation for securing the Subjection of the Colonists to the Parliament and future Laws of England,—that this was the Sense of the English Crown, the Nation and our Predecessors when they first took Possession of this Country—that if the Colonies were not then annexed to the Realm they cannot have been annexed since that Time—that if they are not now annexed to the *Realm* they are not Part of the *Kingdom*, and consequently not subject to the Legislative Authority of the Kingdom; for no Country, by the Common Law, was subject to the Laws or to the Parliament but the Realm of England.

Now if this your Foundation shall fail you in every Part of it, as I think it will, the Fabrick which you have raised upon it must certainly fall.

Let me then observe to you that, as English Subjects, and agreeable to the Doctrine of Feudal Tenure, all our Lands and Tenements are held mediately or immediately of the Crown, and although the Possession and Use or Profits be in the Subject, there still remains a Dominion in the Crown. When any new Countries are discovered

vered by English Subjects, according to the general Law and Usage of Nations, they become Part of the State, and, according to the Feudal System, the Lordship or Dominion is in the Crown and a Right accrues of disposing of such Territories, under such Tenure or for such Services to be performed as the Crown shall judge proper, and whensoever any Part of such Territories, by Grant from the Crown, becomes the Possession or Property of private Persons, such Persons, thus holding under the Crown of England, remain or become Subjects of England to all Intents and Purposes, as fully as if any of the Royal Manors Forests or other Territory within the Realm had been granted to them upon the like Tenure. But that it is now, or was when the Plantations were first granted, the Prerogative of the Kings of England to alienate such Territories from the Crown, or to constitute a Number of new Governments altogether independant of the Sovereign Legislative Authority of the English Empire, I can by no Means concede to you. I have never seen any better Authority to support such an Opinion than an anonymous Pamphlet by which I fear you have too easily been misled; for I shall presently shew you that the Declarations of King James the First, and of King Charles the First, admitting they are truly related by the Author of this Pamphlet, ought to have no Weight with you; nor does the Cession or Restoration, upon a Treaty of Peace, of Countries which have been lost or acquired in War militate with these Principles, nor may any particular Act of Power of a Prince in selling or delivering up any Part of His Dominions to a foreign Prince or State against the

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general Sense of the Nation be urged to invalidate them, and upon Examination it will appear that all the Grants which have been made of America are founded upon them and are made to conform to them, even those which you have adduced in Support of very different Principles.

You do not recollect that, prior to what you call the first Grant by Q. Elizabeth to Sir Walter Raleigh, a Grant had been made, by the same Princess, to Sir Humphrey Gilbert of all such Countries as he should discover which were to be of the *Allegiance of her, her Heirs and Successors* but, he dying in the Prosecution of his Voyage, a second Grant was made to Sir Walter Raleigh which, you say, conveyed the Dominion and Sovereignty without any Reserve of Legislative or Executive Authority *being held by Homage and a Render*. To hold by *Homage*, which implies Fealty, and a *Render* is Descriptive of Socage Tenure as fully as if it had been said to hold *as of our Manor of East Greenwich* the Words in your Charter. Now this alone was a Reserve of Dominion and Sovereignty in the Queen her Heirs and Successors and, besides this, the Grant is made upon this express Condition, which you pass over, *that the People remain subject to the Crown of England*, the Head of that Legislative Authority which, by the English Constitution, is equally extensive with the Authority of the Crown throughout every Part of the Dominions. Now if we could suppose the Queen to have acquired separate from her Relations to her Subjects, or in her natural Capacity, which she could not do, a Title to a Country discovered

ed by her Subjects and then to grant the same Country to English Subjects in her publick Capacity as Queen of England, still by this Grant she annexed it to the Crown. Thus by not distinguishing between the Crown of England and the Kings and Queens of England in their personal or natural Capacities, you have been led into a fundamental Error which must prove fatal to your System. It is not material whether Virginia reverted to the Crown by Sir Walter's Attainder or whether he never took any Benefit from his Grant, though the latter is most probable seeing he ceased from all Attempts to take Possession of the Country after a few Years Trial. There were, undoubtedly, divers Grants made by King James the First of the Continent of America in the Beginning of the 17th Century and similar to the Grant of Queen Elizabeth in this Respect, that they were dependant on the Crown. The Charter to the Council at Plimouth in Devon dated November 3d. 1620 more immediately respects us, and of that we have the most authentick Remains.

By this Charter, upon the Petition of Sir Ferdinando Gorges a Corporation was constituted to be and continue by Succession forever in the Town of Plimouth aforesaid, to which Corporation that Part of the American Continent which lies between the 40° and 48° Degrees of Latitude was granted *to be held of the King his Heirs and Successors as of the Manor of East Greenwich* with Powers to constitute subordinate Governments in America and to make Laws for such Governments, *not repugnant to the Laws*  
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*and Statutes of England.* From this Corporation your Predecessors obtained a Grant of the Soil of the Colony of Massachusetts-Bay, in 1627, and, in 1628, they obtained a Charter from King Charles the First making them a distinct Corporation, also within the Realm, and giving them full Powers within the Limits of their Patent, very like to those of the Council of Plymouth throughout their more extensive Territory.

We will now consider what must have been the Sense of the King of the Nation and of the Patentees at the Time of granting these Patents. From the Year 1602 the Banks and Sea Coasts of New-England had been frequented by English Subjects for catching and drying Cod-Fish. When an exclusive Right to the Fishery was claimed, by Virtue of the Patent of 1620, the House of Commons was alarmed and a Bill was brought in for allowing a free Fishery, and it was upon this Occasion that one of the Secretaries of State declared perhaps as his own Opinion, that the Plantations were not annexed to the Crown and so were not within the Jurisdiction of Parliament. Sir Edwin Sandys, who was one of the Virginia Company and an eminent Lawyer, declared that he knew Virginia had been annexed and *was held of the Crown as of the Manor of East Greenwich* and he believed New-England was so also; and so it most certainly was. This Declaration, made by one of the King's Servants, you say shewed the Sense of the Crown and, being not secretly but openly declared in Parliament you would make it the Sense of the Nation also, notwithstanding your own Assertion

that the Lords and Commons passed a Bill that shewed their Sense to be directly the contrary. But if there had been full evidence of expresse Declarations made by King James the First, and King Charles the First, they were Declarations contrary to their own Grants, which declare this Country to be held of the Crown and consequently it must have been annexed to it. And may not such Declarations be accounted for by other Actions of those Princes who when they were soliciting the Parliament to grant the Duties of Tonnage and Poundage with other Aids and were, in this Way, acknowledging the Rights of Parliament, at the same Time were requiring the Payment of those Duties with Ship Money, &c. by Virtue of their Prerogative ?

But to remove all doubt of the Sense of the Nation and of the Patentees of this Patent or Charter in 1620 I need only refer you to the Account published by Sir Ferdinando Gorges himself of the Proceedings in Parliament upon this Occasion. As he was the most active Member of the Council of Plymouth and as he relates what came within his own Knowledge and Observation his Narrative, which has all the Appearance of Truth and Sincerity, must carry Conviction with it. He says that soon after the Patent was passed and whilst it lay in the Crown-Office he was summoned to appear in Parliament to answer what was to be objected against it, and the House being in a Committee and Sir Edward Coke that great Oracle of the Law, in the Chair, he was called to the Bar and was told by Sir Edward that the House understood that a Patent

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had been granted to the said Sir Ferdinando and divers other noble Persons for establishing a Colony in New-England, that this was deemed a Grievance of the Common-wealth *contrary to the Laws*, and to the Privileges of the Subject, that it was a Monopoly, &c. and he required the Delivery of the Patent into the House. Sir Ferdinando Gorges made no Doubt of the Authority of the House but submitted to their Disposal of the Patent as in their Wisdom they thought good “not knowing, under Favour, how any Action of that Kind could be a Grievance to the Publick seeing it was undertaken for the Advancement of Religion, *the Enlargement of the Bounds of our Nation*, &c. He was willing, however, to submit the whole to their honorable Censures.” After divers Attendances he imagined he had satisfied the House that the planting a Colony was of much more Consequence than a simple disorderly Course of Fishing. He was, notwithstanding, disappointed and, when the Publick Grievances of the Kingdom were presented by the two Houses, that of the Patent for New-England was the first. I don’t know how the Parliament could have shewn more fully the Sense they then had of their Authority over this new acquired Territory, nor can we expect better Evidence of the Sense which the Patentees had of it, for I know of no historical Fact of which we have less Reason to doubt.

And now Gentlemen I will shew you how it appears from our Charter itself, which you say I have not yet been pleased to point out to you except from that Clause which restrains us from  
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making Laws repugnant to the Laws of England, that it was the Sense of our Predecessors at the Time when the Charter was granted that they were to remain subject to the Supreme Authority of Parliament.

Besides this Clause, which I shall have Occasion further to remark upon before I finish, you will find that, by the Charter a Grant was made of Exemption from all Taxes and Impositions upon any Goods imported *into New-England*, or exported from thence into England for the Space of twenty-one Years, except the Custom of five per Cent upon such Goods as, after the Expiration of seven Years, should be brought into England. Nothing can be more plain than that the Charter, as well as the Patent to the Council of Plimouth, constitutes a Corporation in England with Powers to create a subordinate Government or Governments within the Plantation, so that there would always be Subjects of Taxes and Impositions both in the Kingdom and in the Plantation. An Exemption for twenty-one Years implies a Right of Imposition after the Expiration of the Term, and there is no Distinction between the Kingdom and the Plantation. By what Authority, then, in the Understanding of the Parties, were these Impositions to be laid? If any, to support a System, should say by the King rather than to acknowledge the Authority of Parliament, yet this could not be the Sense of one of our principal Patentees Mr. Samuel Vassall who at that Instant, 1628. the Date of the Charter, was suffering the Loss of his Goods rather than submit to an Imposition laid by the King without the

the Authority of Parliament ; and to prove that a few Years after it could not be the Sense of the rest, I need only to refer you to your own Records for the Year 1642 where you will find an Order of the House of Commons, conceived in such Terms as discover a plain Reference to this Part of the Charter, after fourteen Years of the Twenty-one were expired. By this Order the House of Commons declare that all Goods and Merchandize exported to New-England or imported from thence shall be free from all Taxes and Impositions both in the Kingdom *and in New-England* until the House shall take further Order therein to the contrary. The Sense which our Predecessors had of the Benefit which they took from this Order evidently appears from the Vote of the General Court, acknowledging their humble Thankfulness, and preserving a grateful Remembrance of the Honorable Respect from that high Court, and resolving that the Order sent unto them under the Hand of the Clerk of the Honorable House of Commons shall be entered among their Publick Records to remain there unto Posterity : And, in an Address to Parliament, Nine Years after, they acknowledge, among other undeserved Favours that of *taking off the Customs from them.*

I am at a Loss to know what your Ideas could be when you say that if the Plantations are not Part of the *Realm*, they are not Part of the *Kingdom*, seeing the two Words can properly convey but one Idea and they have one and the same Signification in the different Languages from whence they are derived. I do not charge you  
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with any Design, but the equivocal Use of the Word Realm in several Parts of your Answer makes them perplexed and obscure. Sometimes, you must intend the whole Dominion which is subject to the Authority of Parliament, sometimes only strictly the Territorial Realm to which other Dominions are or may be annexed. If you mean that no Countries but the ancient territorial Realm can constitutionally be subject to the Supreme Authority of England, which you have very incautiously said is a Rule of the Common Law of England, this is a Doctrine which you will never be able to support. That the Common Law should be controuled and changed by Statutes every Day's Experience teaches, but that the Common Law prescribes Limits to the Extent of the Legislative Power, I believe has never been said upon any other Occasion. That Acts of Parliament for several Hundred Years past have respected Countries, which are not strictly within the Realm, you might easily have discovered by the Statute Books. You will find Acts for regulating the Affairs of Ireland, though a seperate and distinct Kingdom. Wales and Calais, whilst they sent no Representatives to Parliament, were subject to the like Regulations. So are Guernsey, Jersey, Alderney, &c. which send no Members to this Day. These Countries are not more properly a Part of the ancient Realm, than the Plantations, nor do I know that they can more properly be said to be annexed to the Realm, unless the declaring that Acts of Parliament shall extend to Wales, though not particularly named shall make it so, which I conceive it does not in the Sense you intend.

Thus,

Thus, I think, I have made it appear that the Plantations, though not strictly within the Realm, have from the Beginning been constitutionally subject to the Supreme Authority of the Realm and are so far annexed to it as to be, with the Realm and the other Dependencies upon it, one intire Dominion ; and that the Plantation or Colony of Massachusetts-Bay in particular is holden as feudatory of the Imperial Crown of England : Deem it to be no Part of the Realm it is immaterial, for, to use the Words of a very great Authority in a Case in some Respects analogous, “ being Feudatory the Conclusion necessary follows, that it is under the Government of the King’s Laws and the King’s Courts in Cases proper for them to interpose, though (like Counties Palatine) it has peculiar Laws and Customs, Jura Regalia, and complete Jurisdiction at Home.”

Your Remark upon and Construction of the Words, *not Repugnant to the Laws of England*, are much the same with those of the Council ; but can any Reason be assigned why the Laws of England as they stood just at that Period should be pitched upon as the Standard, more than at any other Period ? If so, why was it not recurred to when the second Charter was Granted, more than sixty Years after the first ? It is not improbable that the original Intention might be a Repugnancy in general and, a Fortiori, such Laws as were made more immediately to Respect us, but the Statute of 7th and 8th, of King William and Queen Mary, soon after the second Charter, favours the latter Construction only, and the Province Agent, Mr. Dummer, in his much

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applauded

applauded Defence of the Charter, says that *then* a Law in the Plantations may be said to be repugnant to a Law made in Great Britain, when it flatly contradicts it so far as the Law made there mentions and relates to the Plantations. But, Gentlemen, there is another Clause both in the first and second Charter which, I think will serve to explain this or to render all Dispute upon the Construction of it unnecessary.—You are enabled to impose such Oaths only as are warrantable by, or not repugnant to the Laws and Statutes of the Realm. I believe you will not contend that these Clauses must mean such Oaths only as were warrantable at the respective Times when the Charters were granted. It has often been found necessary, since the Date of the Charters, to alter the Forms of the Oaths to the Government by Acts of Parliament, and such Alterations have always been conformed to in the Plantations.

Lest you should think that I admit the Authority of King Charles the Second in giving his Assent to an Act of the Assembly of Virginia, which you subjoin to the Authorities of James the First and Charles the First, to have any Weight, I must observe to you that I do not see any greater Inconsistency with Magna Charta in the King's giving his Assent to an Act of a Subordinate Legislature immediately or in Person than when he does it mediately by his Governor or Substitute but, if it could be admitted that such an Assent discovered the King's Judgment that Virginia was Independent, would you lay any Stress upon it when the same King was from Time to Time giving

giving his Assent to Acts of Parliament which inferred the Dependence of all the Colonies, and had by one of those Acts declared the Plantations to be inhabited and peopled by his Majesty's Subjects of England ?

I gave you no Reason to Remark upon the Absurdity of a Grant to Persons born within the Realm of the same Liberties which would have belonged to them if they had been born within the Realm, but rather guarded against it by considering such Grant as declaratory only, and in the Nature of an Assurance that the Plantations would be considered as the Dominions of England. But is there no Absurdity in a Grant from the King of England of the Liberties and Immunities of Englishmen to Persons born in and who are to inhabit other Territories than the Dominions of England, and would such Grant, whether by Charter or other Letters Patent, be sufficient to make them inheritable, or to intitle them to the other Liberties and Immunities of Englishmen, in any Part of the English Dominions ?

As I am willing to rest the Point between us upon the Plantations having been, from their first Discovery and Settlement under the Crown, a Part of the Dominions of England, I shall not take up any Time in remarking upon your Arguments to shew that since that Time, they cannot have been made a Part of those Dominions.

The remaining Parts of your Answer are principally intended to prove that, under both Charters, it hath been the Sense of the People that

they were not subject to the Jurisdiction of Parliament, and, for this Purpose, you have made large Extracts from the History of the Colony. Whilst you are doing Honor to the Book, by laying any Stress upon its Authority, it would have been no more than Justice to the Author if you had cited some other Passages which would have tended to reconcile the Passage, in my Speech to the History.—I have said that, except about the Time of the Anarchy which preceded the Restoration of King Charles the Second, I have not discovered that the Authority of Parliament had been called in Question even by particular Persons. It was, as I take it, from the Principles imbibed in those Times of Anarchy that the Persons of Influence, mentioned in the History, disputed the Authority of Parliament, but the Government would not venture to dispute it. On the contrary, in four or five Years after the Restoration, the Government declared to the King's Commissioners that the Act of Navigation had been for some Years observed here, that they knew not of it's being greatly violated and that such Laws as appeared to be against it were repealed, It is not strange that these Persons of Influence should prevail upon great Part of the People to fall in, for a Time with their Opinions and to suppose Acts of the Colony necessary to give Force to Acts of Parliament ; the Government, however, several Years before the Charter was vacated, more explicitly acknowledged the Authority of Parliament and voted that their Governor should take the Oath, required of him, faithfully to do and perform all Matters and Things enjoined him by the Acts of Trade. I have not recited  
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in my Speech all these Particulars, nor had I them all in my Mind but, I think, I have said nothing inconsistent with them. My Principles in Government are still the same with what they appear to be in the Book you refer to, nor am I conscious that, by any Part of my Conduct, I have given Cause to suggest the contrary.

Inasmuch as you say that I have not particularly pointed out to you the Acts and Doings of the General Assembly which relate to Acts of Parliament, I will do it now, and demonstrate to you that such Acts have been acknowledged by the Assembly, or submitted to by the People.

From your Predecessors Removal to America until the Year 1640 there was no Session of Parliament, and the first short Session of a few Days only in 1640, and the whole of the next Session, until the withdraw of the King, being taken up in the Disputes between the King and the Parliament, there could be no Room for Plantation Affairs. Soon after the King's withdraw the House of Commons passed the memorable Order of 1642, and from that Time to the Restoration, this Plantation seems to have been distinguished from the rest, and the several Acts or Ordinances, which respected the other Plantations, were never enforced here, and, possibly, under Colour of the Exemption in 1642, it might not be intended they should be executed.

For 15 or 16 Years after the Restoration, there was no Officer of the Customs in the Colony, except the Governor annually elected by the People,

People, and the Acts of Trade were but little regarded, nor did the Governor take the Oath required of Governors by the Act of the 12th of King Charles the Second, until the Time which I have mentioned. Upon the Revolution the Force of an Act of Parliament was evident in a Case of as great Importance as any which could happen to the Colony. King William and Queen Mary were proclaimed in the Colony, King and Queen of England, France and Ireland, *and the Dominions thereunto belonging*, in the Room of King James, and this not by Virtue of an Act of the Colony, for no such Act ever passed, but by Force of an Act of Parliament which altered the Succession to the Crown, and for which the People waited several Weeks with anxious Concern. By Force of another Act of Parliament, and that only, such Officers of the Colony as had taken the Oaths of Allegiance to King James deemed themselves at Liberty to take, and accordingly did take the Oaths to King William and Queen Mary. And that I may mention other Acts of the like Nature together, it is by Force of an Act of Parliament that the Illustrious House of Hanover succeeded to the Throne of Britain *and its Dominions*, and by several other Acts, the Forms of the Oaths have from Time to Time, been altered, and by a late Act that Form was established which every one of us has complied with as the Charter in express Words requires and makes our Duty. Shall we now dispute whether Acts of Parliament have been submitted to when we find them submitted to in Points which are of the very Essence of our Constitution? If you should disown that Authority which

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has Power even to change the Succession to the Crown, are you in no Danger of denying the Authority of our most gracious Sovereign, which I am sure none of you can have in your Thoughts ?

I think I have before shewn you, Gentlemen, what must have been the Sense of our Predecessors at the Time of the first Charter, let us now, whilst we are upon the Acts and Doings of the Assembly, consider what it must have been at the Time of the second Charter. Upon the first Advice of the Revolution in England, the Authority which assumed the Government instructed their Agents to petition *the Parliament* to restore the first Charter, and a Bill for that Purpose passed the House of Commons, but went no farther. Was not this owning *the Authority of Parliament* ? By an Act of Parliament, passed in the first Year of King William and Queen Mary, a Form of Oaths was established to be taken by those Princes and by all succeeding Kings and Queens of England at their Coronation, the first of which is, that they will govern the People of the Kingdom *and the Dominions thereunto belonging, according to the Statutes in Parliament agreed on, and the Laws and Customs of the same.* When the Colony directed their Agents to make their humble Application to King William to grant the second Charter, they could have no other Pretence than as they were Inhabitants of Part of *the Dominions of England*, and they also knew the Oath the King had taken to govern them *according to the Statutes in Parliament* ; surely then, at the Time of this Charter also, it was the Sense of our Predecessors, as well as of the King and of the Nation  
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that there was and would remain a Supremacy in the Parliament. About the same Time, they acknowledge, in an Address to the King, that they have no Power to make Laws *repugnant to the Laws of England*. And, immediately after the Assumption of the Powers of Government by Virtue of the new Charter, an Act passed to revive for a limited Time all the Local Laws of the Colonies of Massachusetts-Bay and New-Plimouth, respectively, *not repugnant to the Laws of England*. And, at the same Session, an Act passed establishing Naval Officers in several Ports of the Province, for which this Reason is given, *that all undue Trading contrary to an Act of Parliament made in the 15th Year of King Charles the Second may be prevented in this their Majesty's Province*. The Act of this Province passed so long ago as the second Year of King George the first, for stating the Fees of the Custom-House Officers, must have relation to the Acts of Parliament by which they are constituted, and the Provision made in that Act of the Province for extending the Port of Boston to all the Roads as far as Cape-Aod, could be for no other Purpose than for the more effectual carrying the Acts of Trade into Execution. And, to come nearer to the present Time, when an Act of Parliament had passed in 1741, for putting an End to certain unwarrantable Schemes in this Province, did the Authority of Government, or those Persons more immediately affected by it, ever dispute the Validity of it? On the contrary, have not a Number of Acts been passed in the Province, that the Burdens to which such Persons were subjected might be equally apportioned, and have not all those

those Acts of the Province been very carefully framed to prevent their militating with the Act of Parliament? I will mention also an Act of Parliament made in the first Year of Queen Ann, altho' the Proceedings upon it more immediately respected the Council. By this Act no Office Civil or Military shall be void by the Death of the King, but shall continue six Months, unless suspended or made void by the next Successor. By Force of this Act, Governor Dudley continued in the Administration six Months from the Demise of Queen Ann, and immediately after, the Council assumed the Administration and continued it until a Proclamation arrived from King George, by Virtue of which Governor Dudley reassumed the Government. It would be tedious to enunciate the Addresses, Votes and Messages of both the Council and House of Representatives to the same Purpose. I have said enough to shew that this Government has submitted to Parliament from a Conviction of it's constitutional Supremacy, and this not *from Inconsideration, nor meerly from Reluctance at the Idea of contending with the Parent State.*

If then I have made it appear, that both by the first and second Charters we hold our Lands and the Authority of Government not of the King but of the *Crown* of England, that being a Dominion of the Crown of England, we are consequently subject to the Supreme Authority of England, that this hath been the Sense of this Plantation, except in those few Years when the Principles of Anarchy which had prevailed in the Kingdom had not lost their Influence here; and

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if, upon a Review of your Principles, they shall appear to you to have been delusive and erroneous, as I think they must, or if you shall only be in Doubt of them, you certainly will not draw that Conclusion which otherwise you might do, and which I am glad you have hitherto avoided; especially when you consider the obvious and inevitable Distress and Misery of Independence upon our Mother Country, if such Independence could be allowed or maintained, and the Probability of much greater Distress, which we are not able to foresee.

You ask me if we have not Reason to fear we shall soon be reduced to a worse Situation than that of the Colonies of France, Spain or Holland. I may safely affirm that we have not; that we have no Reason to Fear any Evils from a Submission to the Authority of Parliament, equal to what we must feel from its Authority being disputed, from an uncertain Rule of Law and Government. For more than seventy Years together the Supremacy of Parliament was acknowledged without Complaints of Grievance. The Effect of every Measure cannot be foreseen by human Wisdom. What can be expected more from any Authority than when the Unfitness of a Measure is discovered, to make it void? When upon the united Representations and Complaints of the American Colonies any Acts have appeared to Parliament to be unsalutary, have there not been repeated Instances of the Repeal of such Acts? We cannot expect these Instances should be carried so far as to be equivalent to a Disavowal or Relinquishment of the Right itself. Why then shall

shall we fear for ourselves and our Posterity, greater rigour of Government for seventy Years to come than what we and our Predecessors have felt in the seventy Years past.

You must give me Leave, Gentlemen, in a few Words to vindicate myself from a Charge, in one Part of your Answer, of having, by my Speech, reduced you to the unhappy Alternative of appearing by your Silence to acquiesce in my Sentiments, or of freely discussing this Point of the Supremacy of Parliament. I saw, as I have before observed, the Capital Town of the Province, without being reduced to such an Alternative, voluntarily not only discussing but determining this Point, and inviting every other Town and District in the Province to do the like. I saw that many of the principal Towns had followed the Example, and that there was imminent Danger of a Compliance in most if not all the Rest, in Order to avoid being distinguished. Was not I reduced to the Alternative of rendering myself justly obnoxious to the Displeasure of my Sovereign by acquiescing in such Irregularities, or of calling upon you to join with me in suppressing them? Might I not rather have expected from you an Expression of your Concern that any Persons should project and prosecute a Plan of Measures which would lay me under a Necessity of bringing this Point before you? It was so far from being my Inclination, that nothing short of a Sense of Duty to the King, and the Obligations I am under to consult your true Interest could have compelled me to it.

*Gentlemen of the Council, and  
Gentlemen of the House of Representatives,*

We all profess to be the loyal and dutiful Subjects of the King of Great-Britain. His Majesty considers the British Empire as one entire Dominion, subject to one Supreme Legislative Power, a due Submission to which is essential to the Maintenance of the Rights, Liberties and Privileges of the several Parts of this Dominion. We have abundant Evidence of his Majesty's tender and impartial Regard to the Rights of his Subjects ; and I am authorized to say that " his Majesty will most graciously approve of every Constitutional Measure that may contribute to the Peace, the Happiness, and Prosperity of his Colony of Massachusetts-Bay, and which may have the Effect to shew to the World that he has no Wish beyond that of reigning in the Hearts and Affections of his People."

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*To this Speech His Majesty's Council on the 25th of February sent to his Excellency the following Answer, by Harrison Gray, James Russell, James Pitts, Stephen Hall, and James Humphry, Esq's; viz.*

*May it please your Excellency,*

**A**S a small Part only of your Excellency's last Speech to both Houses is addressed to the Board, there are but a few Clauses on which we shall Remark.

With Regard to the Disorders that have arisen, your Excellency and the Board have assigned different Causes. The Cause you are pleased to assign, together with the Disorders themselves, we suppose to be Effects arising from the Stamp-Act, and certain other Acts of Parliament. If we were not mistaken in this, which you do not assert, it so far seems to invalidate what is said in your Speech on that Head.

We have taken Notice of this, only because it stands connected with another Matter, on which we would make a few further Observations. What we refer to is the general Nature of Supreme Authority. We have already offered Reasons, in which your Excellency seems to acquiesce, to shew that, though the Term *Supreme* sometimes carries with it the Idea of *unlimited* Authority, it cannot, in that Sense, be applied to that which is human. What is usually denominated

nated the Supreme Authority of a Nation must nevertheless be limited in it's Acts to the Objects that are properly or constitutionally cognizable by it. To illustrate our Meaning, we beg Leave to quote a Passage from your Speech, at the Opening of this Session, where your Excellency says, "so much of the Spirit of Liberty breathes through all Parts of the English Constitution, that although from the Nature of Government there must be one Supreme Authority over the whole, yet this Constitution will admit of Subordinate Powers with Legislative and Executive Authority, greater or less, according to Local and other Circumstances."—This is very true, and implies, that the Legislative and Executive Authority granted to the Subordinate Powers should extend and operate as far as the Grant allows; and that, if it does not exceed the Limits prescribed to it, and no Forfeiture be incurred, the Supreme Power has no rightful Authority to take away or diminish it, or to substitute its own Acts in Cases wherein the Acts of the Subordinate Power can, according to its Constitution, operate. To suppose the contrary is to suppose, that it has no Property in the Privileges granted to it, for if it holds them at the Will of the Supreme Power, which it must do by the above Supposition, it can have no Property in them: upon which Principle, which involves the Contradiction, that what is granted is in Reality not granted, no Subordinate Power can exist. But as in Fact the two Powers are not incompatible, and do subsist together, each restraining its Acts to their Constitutional Objects, can we not from hence see how the Supreme Power may supervise, regulate, and make general Laws

Laws for the Kingdom, without interfering with the Privileges of the Subordinate Powers within it? And also see how it may extend its Care and Protection to its Colonies, without injuring their Constitutional Rights?—What has been here said concerning Supreme Authority has no Reference to the Manner in which it has been in Fact exercised, but is wholly confined to its general Nature; and if it conveys any just Idea of it, the Inferences that have been at any Time deduced from it, injurious to the Rights of the Colonists, are not well founded; and have probably arisen from a Misconception of the Nature of that Authority.

Your Excellency represents us as introducing a Number of Authorities merely to shew, that “all Taxes upon English Subjects must be levied by Virtue of the Act, not of the King alone, but in Conjunction with the Lords and Commons,” and are pleased to add, that “you should very readily have allowed it; and you should as readily have allowed, that all other Acts of Legislation must be passed by the same joint Authority, and not by the King alone.”—Your Excellency “would have saved us the Trouble of all those Authorities:” and on our Part we should have been as willing to have saved your Excellency the Trouble of dismembering our Argument, and from thence taking Occasion to represent it in a disadvantageous Light, or rather totally destroying it.

In Justice to ourselves it is necessary to Recapitulate that Argument adduced to prove, that the

the Inhabitants of this Province are not constitutionally subject to Parliamentary Taxation. In order thereto we recurred to Magna Charta and other Authorities. And the Argument abridged stands thus—That from those Authorities it appears an Essential Part of the English Constitution, “that no Tallage, or Aid, or Tax, shall be laid or levied, without the Good-will and Assent of the Freemen of the Commonalty of the Realm.” That from Common Law, and the Province Charter, the Inhabitants of this Province are clearly intitled to all the Rights of free and natural Subjects within the Realm : That among those Rights must be included the essential one just mentioned concerning Aids and Taxes ; and therefore that no Aids or Taxes can be levied on us constitutionally without our own Consent signified by our Representatives. From whence the Conclusion is clear, that therefore the Inhabitants of this Province are not constitutionally subject to Parliamentary Taxation.

We did not bring those Authorities to shew that Tax Acts, or any other Acts of Parliament, in order to their Validity, must have the Concurrence of the King, Lords, and Commons ; but to shew, that it has been, at least from the Time of Magna Charta, an essential Right of free Subjects within the Realm, to be free from all Taxes but such as were laid with their own Consent. And it was proper to shew this, as the Rights and Liberties, granted by the Province Charter, were to be equally extensive, to all Intents and Purposes, with those enjoyed by free and natural Subjects within the Realm. There-fore

fore to shew our own Rights in Relation to Taxes, it was necessary to shew the Rights of Freemen within the Realm, in Relation to them : and for this Purpose those Authorities were brought, and not impertinently, as we humbly apprehend. Nor have we seen Reason to change our Sentiments with Respect to this Matter or any other contained in our Answer to your Excellency's Speech.

In the last Clause of your Speech, your Excellency informs the two Houses, "you are Authorized to say, that his Majesty will most graciously approve of every Constitutional Measure, that may contribute to the Peace, the Happiness and Prosperity of his Colony of Massachusetts-Bay."—We have the highest Sense of his Majesty's Goodness in his gracious Disposition to approve of such Measures, which, as it includes his Approbation of the Constitutional Rights of his Subjects of this Colony, manifests his Inclination to protect them in those Rights ; and to remove the Incroachments that have been made upon them. Of this Act of Royal Goodness they are not wholly unworthy, as in Regard to Loyalty, Duty and Affection to his Majesty, they stand among the foremost of his faithful Subjects.

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*And on Tuesday March 2d, Mr. Hancock, Mr. Gorham, Major Fuller, Capt. Greenleaf, Capt. Heath, Mr. Phillips, Capt. Nye, Capt. Brown of Watertown, and Capt. Gardner, a Committee of the House of Representatives, waited on the Governor with their Answer as follows, Viz.*

*May it please your Excellency,*

**I**N your Speech at the Opening of the present Session, your Excellency express'd your Displeasure at some late Proceedings of the Town of Boston, and other principal Towns in the Province. And in another Speech to both Houses we have your repeated Exceptions at the same Proceedings as being "unwarrantable," and of a dangerous Nature and Tendency; "against which you thought yourself bound to call upon us to join with you in bearing a proper Testimony" This House have not discovered any Principles advanced by the Town of Boston, that are unwarrantable by the Constitution; nor does it appear to us that they have "invited every other Town and District in the Province to adopt their Principles." We are fully convinced that it is our Duty to bear our Testimony against "Innovations of a dangerous Nature and Tendency;" But is clearly our Opinion, that it is the indisputable Right of all or any of his Majesty's Subjects in this Province, regularly and orderly to meet together to state the Grievances they labor under; and to propose and

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unite in such constitutional Measures as they shall judge necessary or proper to obtain Redress. This Right has been frequently exercised by his Majesty's Subjects within the Realm ; and we do not recollect an Instance, since the happy Revolution, when the two Houses of Parliament have been called upon to discountenance or bear their Testimony against it, in a Speech from the Throne.

Your Excellency is pleased to take Notice of some things which we " alledge " in our Answer to your first Speech ; and the Observation you make, we must confess, is as natural and as undeniably true, as any one that could have been made, that " if our Foundation shall fail us *in every Part of it*, the Fabrick we have rais'd upon it, must certainly fall." You think, this Foundation will fail us ; but we wish your Excellency had condescended to a Consideration of what we have " adduced in Support of our Principles." We might then perhaps have had some things offered for our Conviction, more than bare Affirmations ; which, we must beg to be excused if we say, are far from being sufficient, though they came with your Excellency's Authority, for which however we have a due Regard.

Your Excellency says that " as English Subjects and agreeable to the Doctrine of the Feudal Tenure all our Lands are held mediately or immediately of the Crown." We trust your Excellency does not mean to introduce the Feudal System in it's Perfection ; which to use the Words of one of our greatest Historians, was " a State of perpetual

War, Anarchy and Confusion ; calculated solely for Defence against the Assaults of any foreign Power, but in it's Provision for the interior Order and Tranquility of Society extremely defective."

" A Constitution so contradictory to all the Principles that govern Mankind, could never be brought about but by foreign Conquest or native Usurpation : " And a very celebrated Writer calls it " that most iniquitous and absurd Form of Government by which human Nature was so shamefully degraded." This System of Iniquity by a strange Kind of Fatality, " though originally form'd for an Encampment and for Military Purposes only, spread over a great Part of Europe : " and to serve the Purposes of Oppression and Tyranny " was adopted by Princes and wrought into their Civil Constitutions ; " and aided by the Canon Law, calculated by the Roman Pontiff, to exalt himself above all that is called God, it prevailed to the almost utter Extinction of Knowledge, Virtue, Religion and Liberty from that Part of the Earth. But from the Time of the Reformation, in Proportion as Knowledge, which then darted its Rays upon the benighted World, increas'd and spread among the People, they grew impatient under this heavy Yoke : And the most virtuous and sensible among them, to whose Stedfastness we in this distant Age and Climate are greatly indebted, were determined to get rid of it : And tho' they have in a great Measure subdued it's Power and Influence in England, they have never yet totally eradicated its Principles.

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Upon these Principles the King claimed an absolute Right to and a perfect Estate in all the Lands within his Dominions ; but how he came by this absolute Right and perfect Estate is a Mystery which we have never seen unravelled, nor is it our Business or Design at present to enquire. He granted Parts or Parcels of it to his Friends the Great Men, and they granted lesser Parcels to their Tenants : All therefore derived their Right and held their Lands, upon these Principles, mediately or immediately of the King ; which Mr. *Blackstone* however calls “ in Reality a meer Fiction of our English Tenures ”

By what Right in Nature and Reason the Christian Princes in Europe claimed the Lands of Heathen People, upon a Discovery made by any of their Subjects, is equally mysterious : Such however was the Doctrine universally prevailing when the Lands in America were discovered ; but as the People of England upon those Principles held all the Lands they possessed by Grants from the King, and the King had never granted the Lands in America *to them*, it is certain they could have no Sort of Claim to them : Upon the Principles advanced, the Lordship and Dominion like that of the Lands in England, was in the King solely : and a Right from thence accrued to him of disposing such Territories under such Tenure and for such Services to be performed, as the King or Lord thought proper. But how the Grantees became Subjects of England, that is the Supreme Authority of the Parliament, your Excellency has not explained to us. We conceive that upon the Feudal Principles all Power

is in the King ; they afford us no *Idea of Parliament*. "The Lord was in early Times the Legislator and Judge over all his Feudatories," says Judge Blackstone. By the Struggles for Liberty in England from the Days of King John to the last happy Revolution, the Constitution has been gradually changing for the better ; and upon the more rational Principles that all Men by Nature are in a State of Equality in Respect of Jurisdiction and Dominion, Power in England has been more equally divided. And thus also in America, though we hold our Lands agreeably to the Feudal Principles of the King ; yet our Predecessors wisely took care to enter into Compact with the King that Power here should also be equally divided agreeable to the original fundamental Principles of the English Constitution, declared in Magna Charter, and other Laws and Statutes of England, made to confirm them.

Your Excellency says, " you can by no Means concede to us that it is now or was when the Plantations were first granted the Prerogative of the Kings of England to constitute a Number of new Governments altogether independent of the Sovereign Authority of the English Empire." By the Feudal Principles upon which you say " all the Grants which have been made of America are founded " " the Constitutions of the Emperor have the Force of Law." If our Government be considered as merely Feudatory, we are subject to the King's absolute Will, and there is no Room for the Authority of Parliament, as the Sovereign Authority of the British Empire. Upon these Principles, what could hinder the

the King's constituting a Number of independent Governments in America? That King Charles the First did actually set up a Government in this Colony, conceding to it Powers of making and executing Laws, without any Reservation to the English Parliament, of Authority to make future Laws binding therein, is a Fact which your Excellency has not disproved if you have denied it. Nor have you shewn that the Parliament or Nation objected to it, from whence we have inferred that it was an acknowledged Right. And we cannot conceive, why the King has not the same Right to alienate and dispose of Countries acquired by the Discovery of his Subjects, as he has to "restore upon a Treaty of Peace Countries which have been acquired in War," carried on at the Charge of the Nation; or to "sell and deliver up any Part of his Dominions to a foreign Prince or State, against the General Sense of the Nation" which is "an Act of Power" or Prerogative which your Excellency allows. You tell us that "when any New Countries are discovered by English Subjects, according to the general Law and Usage of Nations, *they become Part of the State.*" The Law of Nations is or ought to be founded on the Law of Reason. It was the Saying of Sir Edwin Sandis, in the great Case of the Union of the Realm of Scotland with England, which is applicable to our present Purpose, that "there being no Precedent for this Case in the Law, the Law is deficient; and the Law being deficient, Recourse is to be had to Custom; and Custom being insufficient, we must recur to natural Reason," the greatest of all Authorities, which he adds "is the Law  
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of Nations." The Opinions therefore, and Determinations of the greatest Sages and Judges of the Law in the Exchequer Chamber ought not to be considered as decisive or binding in our present Controversy with your Excellency, any further than they are consonant to *natural Reason*. If however we were to recur to such Opinions and Determinations we should find very great Authorities in our Favour, to show that the Statutes of England are not binding on those who are not represented in Parliament there. The Opinion of Lord Coke that Ireland was bound by Statutes of England wherein they *were named*, if compared with his other Writings, appears manifestly to be grounded upon a Supposition, that Ireland had by an Act of their own, in the Reign of King John, consented to be thus bound, and upon any other Supposition this Opinion would be against *Reason*; for *Consent only* gives human Laws their Force. We beg Leave, upon what your Excellency has observed of the Colony becoming a Part of the State, to subjoin the Opinions of several learned Civilians, as quoted by a very able Lawyer in this Country; "Colonies, says Puffendorf, are settled in different Methods. For either the Colony *continues a Part* of the Common Wealth it was set out from; or else is obliged to pay a dutiful Regard to the Mother Common Wealth, and to be in Readiness to defend and vindicate its Honor, and so is united by a Sort of unequal Confederacy; or lastly, is *erected into a seperate Common Wealth* and *assumes the same Rights*, with the State it descended from." And King Tullius, as quoted by the same learned Author  
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from Grotius, says " We look upon it to be neither Truth nor Justice that Mother Cities ought of Necessity and *by the Law of Nature to rule over the Colonies.*"

Your Excellency has misinterpreted what we have said, " that no Country by the Common Law, was subject to the Laws or the Parliament but the Realm of England," and are pleased to tell us that we have expressed ourselves "*Incautiously.*" We beg Leave to recite the Words of the Judges of England in the beforementioned Case to our Purpose. " If a King go out of England with a Company of his Servants, Allegiance remaineth among his Subjects and Servants, altho' he be out of his Realm *whereto his Laws are confined.*" We did not mean to say, as your Excellency would suppose, that " the Common Law prescribes Limits to the Extent of the Legislative Power," though we shall always affirm it to be true of the Law of Reason and natural Equity. Your Excellency thinks you have made it appear, that the Colony of Massachusetts-Bay is holden as feudatory of the Imperial Crown of England;" and therefore you say, " to use the Words of a very great Authority in a Case in *some Respects* analogous to it," being feudatory it necessarily follows, that it is under the Government of the King's Laws." Your Excellency has not named this Authority; but we conceive his Meaning must be, that being Feudatory, it is under the Government of the King's Laws *absolutely*; for as we have before said the Feudal System admits of no Idea of the Authority of Parliament, and this would have

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been the Case of the Colony but for the Compact with the King in the Charter.

Your Excellency says, that “Persons thus holding *under the Crown* of England remain or *become* Subjects of England;” by which we suppose your Excellency to mean, subject to the Supreme Authority of Parliament “to all Intents and Purposes as fully as if any of the Royal Manors, &c. within the Realm had been Granted to them upon the like Tenure.” We apprehend with Submission, your Excellency is Mistaken in supposing that our Allegiance is due to the Crown of England. Every Man swears Allegiance for himself to his own King in his Natural Person. “Every Subject is presumed by Law to be Sworn to the King, which is to his Natural Person,” says Lord Coke. *Rep. on Calvins Case*. “The Allegiance is due to his Natural Body.” And he says “in the Reign of Edward II. the Spencers, the Father and the Son, to cover the Treason hatched in their Hearts, invented this damnable and damned Opinion, that *Homage* and Oath of Allegiance was more by Reason of the King’s Crown, that is of his politick Capacity, than by Reason of the Person of the King; upon which Opinion they infer’d execrable and detestable Consequents.” The Judges of England, all but one, in the Case of the Union between Scotland and England, declared that “Allegiance followeth the natural Person not the politick;” and “to prove the Allegiance to be tied to the Body natural of the King, and not to the Body politick, the Lord Coke cited the Phrases of diverse Statutes, mentioning our  
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*natural* liege Sovereign."—If then the Homage and Allegiance is not to the Body politick of the King, then it is not to him as the Head or any Part of that Legislative Authority, which your Excellency says "is equally extensive with the Authority of the Crown throughout every Part of the Dominion;" and your Excellency's Observations thereupon must fail. The same Judges mention the Allegiance of a Subject to the Kings of England who is out of the Reach and Extent of the Laws of England; which is perfectly reconcileable with the Principles of our Ancestors quoted before from your Excellency's History, but upon your Excellency's Principles appears to us to be an Absurdity. The Judges, speaking of a Subject, say, "although his Birth was out of the Bounds of the Kingdom of England, and out of the Reach and Extent of the Laws of England, yet if it were within the Allegiance of the King of England, &c. Normandy, Aquitain, Gascoign, and other Places within the Limits of France, and consequently out of the Realm or Bounds of the Kingdom of England, were in Subjection to the Kings of England. And the Judges say, "*Rex et Regnum* be not so Relatives, as a King can be King but of one Kingdom, which clearly holdeth not but that his Kingly Power extending to divers Nations and Kingdoms, all owe him equal Subjection and are equally born to the Benefit of his Protection, and altho' he is to govern them by *their distinct Laws*, yet any one of the People coming into the other is to have the Benefit of the Laws wheresoever he cometh." So they are not to be deemed Aliens, as your Excellen-

ty in your Speech supposes in any of the Dominions ; all which accords with the Principles our Ancestors held. " And he is to bear the Burden of Taxes of the *Place where he cometh*, but living in one or for his Livelihood in one, *he is not to be taxed in the other*, because Laws ordain Taxes, Impositions and Charges as a Discipline of Subjection particularized to every particular Nation : " Nothing we think, can be more clear to our Purpose than this Decision, of Judges, perhaps as learned as ever adorned the English Nation ; or in Favor of America in her present Controversy with the Mother State.

Your Excellency says, that by our not distinguishing between the Crown of England and the Kings and Queens of England in their personal or natural Capacities, we have been led into a fundamental Error." Upon this very Distinction we have availed ourselves. We have said that our Ancestors considered the Land which they took Possession of in America as out of the Bounds of the Kingdom of England, and out of the Reach and Extent of the Laws of England ; and that the King also even in the Act of granting the Charter, considered the Territory as *not within* the Realm ; that the King had an absolute Right in himself to dispose of the Lands, and that this was not disputed by the Nation ; nor could the Lands on any solid Grounds be claimed by the Nation, and therefore our Ancestors received the Lands by Grant from the King, and at the same Time compacted with him and promised him Homage and Allegiance, not in his publick or politick but natural Capacity

Capacity only.———If it be difficult for us to show how the King acquired a Title to this Country in his natural Capacity, or separate from his Relation to his Subjects, which we confess, yet we conceive it will be equally difficult for your Excellency to show how the Body Politick and Nation of England acquired it. Our Ancestors supposed it was acquired by neither ; and therefore they declared, as we have before quoted from your History, that saving their actual Purchase from the Natives, of the Soil, the Dominion, the Lordship, and Sovereignty, they had in the Sight of God and Man, no Right and Title to what they possessed. How much clearer then in natural Reason and Equity must our Title be, who hold Estates dearly purchased at the Expence of our own as well as our Ancestors Labour, and defended by them with Treasure and Blood.

Your Excellency has been pleased to confirm, rather than deny or confute a Piece of History which you say we took from an anonymous Pamphlet, and by which you “ fear we have been too easily misled.” It may be gathered from your own Declaration and other Authorities besides the anonymous Pamphlet, that the House of Commons took Exception, not at the King’s having made an absolute Grant of the Territory, but at the Claim of an exclusive Right to the Fishery on the Banks and Sea Coast, by Virtue of the Patent. At this you say “ the House of Commons was alarmed, and a Bill was brought in for allowing a free Fishery.” And upon this Occasion your Excellency allows, that “ one of  
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the Secretaries of State declared that the Plantations were not annexed to the Crown, and so were not within the Jurisdiction of Parliament." If we should concede to what your Excellency supposes might possibly or "perhaps" be the Case, that the Secretary made this Declaration "as his own Opinion," the Event showed that it was the Opinion of the King too; for it is not to be accounted for upon any other Principle, that he would have denied his Royal Assent to a Bill formed for no other Purpose, but to grant his Subjects in England the Privilege of Fishing on the Sea Coasts in America. The Account published by Sir Ferdinando Gorges himself, of the Proceedings of Parliament *on this Occasion*, your Excellency thinks will remove all Doubt of the Sense of the Nation and of the Patentees of this Patent or Charter in 1620. "This Narrative, you say, has all the Appearance of Truth and Sincerity," which we do not deny: And to us it carries this Conviction with it, that "what was objected" in Parliament was, the exclusive Claim of Fishing only. His imagining that he had satisfied the House after divers Attendances, that the Planting a Colony was of much more Consequence than a *simple disorderly Course of Fishing*, is sufficient for our Conviction. We know that the Nation was at that Time alarmed with Apprehensions of Monopolies; and if the Patent of New-England was presented by the two Houses as a Grievance, it did not show, as your Excellency supposes, "the Sense they then had of their Authority over this new-acquired Territory," but only their Sense of the Grievance of a Monopoly of the Sea.

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We are happy to hear your Excellency say, that "our Remarks upon and Construction of the Words *not repugnant to the Laws of England*, are much the same with those of the Council." It serves to confirm us in our Opinion, in what we take to be the most important Matter of Difference between your Excellency and the two Houses. After saying, that the Statute of 7th and 8th of William and Mary favors the Construction of the Words as intending such Laws of England as are made more immediately to respect us, you tell us, that "the Province Agent Mr. Dummer in his much applauded Defence, says that *then a Law of the Plantations may be said to be repugnant to a Law made in Great-Britain*, when it flatly contradicts it so far as the Law made there mentions and relates to the Plantations." This is plain and obvious to common Sense, and therefore cannot be denied. But if your Excellency will read a Page or two further in that excellent Defence, you will see that he mentions this as the Sense of the Phrase, as taken from an Act of Parliament, rather than as the Sense he would chuse himself to put upon it; and he expressly designs to shew, in Vindication of the Charter, that in that Sense of the Words, there never was a Law made in the Plantations repugnant to the Laws of Great-Britain. He gives another Construction much more likely to be the true Intent of the Words; namely, "that the Patentees shall not presume under Colour of their particular Charters to make any Laws *inconsistent with the Great Charter and other Laws of England, by which the Lives Liberties, and Properties of Englishmen are secured.*" This is the Sense in which

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our Ancestors understood the Words ; and therefore they were unwilling to conform to the Acts of Trade, and disregarded them till they made Provision to give them Force in the Colony by a Law of their own ; saying, that “ the Laws of England did not reach America : And those Acts were an Invasion of their Rights, Liberties and Properties,” because they were not “ represented in Parliament.” The Right of being governed only by Laws which were made by Persons in whose Election they had a Voice ; they looked upon as the Foundation of English Liberties. By the Compact with the King in the Charter, they were to be as free in America, as they would have been if they had remained within the Realm ; and therefore they freely asserted that they “ were to be governed by Laws made by themselves and by Officers chosen by themselves.” Mr. Dummer says, “ It seems reasonable enough to think that the Crown,” and he might have added our Ancestors, “ intended by this Injunction to provide for all its Subjects, that they might not be oppressed by Arbitrary Power—but—being still Subjects, they should be protected by the same mild Laws and enjoy the same happy Government as if they continued within the Realm.” And considering the Words of the Charter in this Light, he looks upon them as designed to be a Fence against Oppression and despotic Power. But the Construction which your Excellency puts upon the Words, reduces us to a State of Vassalage, and exposes us to Oppression and despotic Power, whenever a Parliament shall see fit to make Laws for that Purpose and put them in Execution.

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We flatter ourselves that from the large Extracts we have made from your Excellency's History of the Colony, it appears evidently, that under both Charters it hath been the Sense of the People and of the Government that they were not under the Jurisdiction of Parliament. We pray you again to recur to those Quotations and our Observations upon them : And we wish to have your Excellency's judicious Remarks. When we adduced that History to prove that the Sentiments of *private* Persons of Influence, four or five Years after the Restoration, were very different from what your Excellency apprehended them to be when you delivered your Speech, you seem to concede to it by telling us " it was, as you take it, from the *Principles imbibed* in those Times of Anarchy (preceeding the Restoration) that they disputed the Authority of Parliament ;" but you add, " the Government would not venture to dispute it." We find in the same History a Quotation from a Letter of Mr. *Stoughton*, dated 17 Years after the Restoration, mentioning " the Country's not taking Notice of the Acts of Navigation *to observe them.*" And it was, as we take it, after that Time, that the Government declared in a Letter to their Agents, that they had not submitted to them ; and they ventured to "dispute" the Jurisdiction, asserting that they apprehended the Acts to be an Invasion of the Rights, Liberties and Properties of the Subjects of his Majesty in the Colony, *they not being represented in Parliament ;* and that " the Laws of England *did not reach America.*" It very little avails in Proof that they conceded to the Supreme Authority of Parliament, their

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telling the Commissioners " that the Act of Navigation had for some Years before been observed here, that they knew not of its being greatly violated, and that such Laws as appeared to be against it were repealed." It may as truly be said now, that the Revenue Acts are observed by some of the People of this Province ; but it cannot be said that the Government and People of this Province have conceded that the Parliament had Authority to make such Acts to be observed here. Neither does their Declarations to the Commissioners that such Laws as appeared to be against the Act of Navigation were repealed, prove their Concession of the Authority of Parliament, by any means so much as their making Provision for giving Force to an Act of Parliament within this Province, by a deliberate and solemn Act or Law of their own, proves the contrary.

You tell us, that " the Government four or five Years before the Charter was vacated more explicitly," that is than by a Conversation with the Commissioners, " acknowledged the Authority of Parliament, and voted that their Governor should take the Oath required of him faithfully to do and perform all Matters and Things enjoined him by the Acts of Trade." But does this, may it please your Excellency, show their explicit Acknowledgment of the Authority of Parliament ? Does it not rather show directly the contrary : For, what need could there be for their Vote or Authority to require him to take the Oath already required of him by the Act of Parliament, unless both he and they judged that an Act of Parliament was not of Force sufficient

to bind him to take such Oath ? We do not deny, but on the contrary are fully persuaded that your Excellency's Principles in Government are still of the same with what they appear to be in the History ; for you there say, that " the passing this Law plainly shows the wrong Sense they had of the Relation they stood in to England." But we are from hence convinced that your Excellency, when you wrote the History was of our Mind in this Respect, that our Ancestors in passing the Law discovered their Opinion that they were without the Jurisdiction of Parliament : For it was upon this Principle alone that they shewed the wrong Sense they had in your Excellency's Opinion, of the Relation they stood in to England.

Your Excellency in your second Speech condescends to point out to us the Acts and Doings of the General Assembly which relates to Acts of Parliament, which you think " demonstrates that they have been acknowledged by the Assembly or submitted to by the People : " Neither of which in our Opinion shows that it was the Sense of the Nation, and our Predecessors when they first took Possession of this Plantation or Colony by a Grant and Charter from the Crown, that they were to remain subject to the supreme Authority of the English Parliament.

Your Excellency seems chiefly to rely upon our Ancestors, after the Revolution " proclaiming King William and Queen Mary in the Room of King James," and taking the Oaths to them, " the Alteration of the Form of Oaths from

Time to Time," and finally "the Etablissement of the Form which every one of us has complied with, as the Charter in expresse Terms requires and makes our Duty." We do not know that it has ever been a Point in Dispute whether the Kings of England were ipso facto Kings in and over this Colony or Province. The Compact was made between King Charles the First, his Heirs and Successors, and the Governor and Company, their Heirs and Successors. It is easy upon this Principle to account for the Acknowledgment of and Submission to King William and Queen Mary as Successors of Charles the First, in the Room of King James: Besides it is to be considered, that the People in the Colony as well as in England had suffered under the TYRANT James, by which he had alike forfeited his Right to reign over both. There had been a Revolution here as well as in England. The Eyes of the People here were upon William and Mary, and the News of their being proclaimed in England was as your Excellency's History tells us, "the most joyful News ever received in New-England." And if they were not proclaimed here "by virtue of an Act of the Colony," it was, as we think may be concluded from the Tenor of your History, with the general or universal Consent of the People as apparently as if "such Act had passed." It is *Consent alone*, that makes any human Laws binding; and as a learned Author observes, a purely voluntary Submission to an Act, because it is highly in our Favor and for our Benefit, is in all Equity and Justice to be deemed as not at all proceeding from the Right we include in the Legislators,

Legislators, that they thereby obtain an *Authority* over us, and that ever hereafter we must obey them of *Duty*. We would observe that one of the first Acts of the General Assembly of this Province since the present Charter, was an Act requiring the taking the Oaths mentioned in an Act of Parliament, to which you refer us : For what Purpose was this Act of the Assembly passed, if it was the Sense of the Legislators that the Act of Parliament was in Force in the Province. And at the same Time another Act was made for the Establishment of other Oaths necessary to be taken ; both which Acts have the Royal Sanction, and are now in Force. Your Excellency says, that when the Colony applied to King William for a second Charter, they knew the Oath the King had taken, which was to govern them according to the Statutes in Parliament, and (which your Excellency here omits) *the Laws and Customs of the same*. By the Laws and Customs of Parliament, the People of England freely debate and consent to such Statutes as are made by themselves or their chosen Representatives. This is a Law or Custom which all Mankind may justly challenge as their *inherent* Right. According to this Law the King has an undoubted Right to govern us. Your Excellency upon Recollection surely will not infer from hence, that it was the Sense of our Predecessors that there was to remain a Supremacy in the English Parliament, or a full Power and Authority to make Laws binding upon us in all Cases whatever, in that Parliament where we cannot *debate* and *deliberate* upon the Necessity or Expediency of any Law, and consequently without our Consent,

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and as it may probably happen destructive of the first Law of Society, the Good of the Whole. You tell us that "after the Assumption of all the Powers of Government, by Virtue of the new Charter, an Act passed for the reviving for a limited Time all the local Laws of the Massachusetts-Bay and New-Plymouth respectively, not repugnant to the Laws of England. And at the same Session an Act passed establishing Naval Officers, that all undue Trading contrary to an Act of Parliament—may be prevented." Among the Acts that were then revived we may reasonably suppose was that whereby Provision was made to give Force to this Act of Parliament in the Province. The Establishment thereof of the Naval Officers was to aid the Execution of an Act of Parliament for the Observance of which within the Colony the Assembly had before made Provision after free Debates with their own Consent and by their own Act.

The Act of Parliament passed in 1741, for putting an End to several unwarrantable Schemes, mentioned by your Excellency, was designed for the general Good, and if the Validity of it was not disputed, it cannot be urged as a Concession of the supreme Authority, to make Laws binding on us *in all Cases whatever* : But if the Design of it was for the general Benefit of the Province, it was in one Respect at least greatly complained of by the Persons more immediately affected by it ; and to remedy the Inconvenience, the Legislative of this Province pass'd an Act, directly militating with it. Which is the strongest evidence, that altho' they may have submitted *sub*  
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*silentio* to some Acts of Parliament that they conceived might operate for their Benefit, they did not conceive themselves bound by any of its Acts which they judged would operate to the Injury even of Individuals.

Your Excellency has not thought proper to attempt to confute the Reasoning of a learned Writer on the Laws of Nature and Nations, quoted by us on this Ocession, to shew that the Authority of the Legislature does not extend so far as the Fundamentals of the Constitution. We are unhappy in not having your Remarks upon the Reasoning of that great Man ; and until it is confuted, we shall remain of the Opinion, that the Fundamentals of the Constitution being excepted from the Commission of the Legislators, none of the Acts or Doings of the General Assembly, however deliberate and solemn, could avail to change them, if the People have not in very exprefs Terms given them the Power to do it ; and that much less ought their Acts and Doings however numerous, which barely refer to Acts of Parliament made expressly to relate to us, to be taken as an Acknowledgment that we are subject to the Supreme Authority of Parliament.

We shall sum up our own sentiments in the Words of that learned Writer Mr. Hooker, in his Ecclesiastical Policy, as quoted by Mr. Locke, " The lawful Power of making Laws to command whole political Societies of Men, belonging so properly to the same intire Societies, that for any Prince or Potentate of what Kind soever,

to exercise the same of himself, and not from exprefs Commission immediately and personally received from God, is no better than mere Tyranny. Laws therefore they are not which *publick approbation* hath not made so, for "Laws human of what Kind soever are available by Consent." "Since Men naturally have no full and perfect Power to command whole politick Multitudes of Men, therefore, utterly without our Consent we could in such Sort be at no Man's Commandment living. And to be commanded we do not consent, when that Society whereof we be a Part, hath at any Time before consented." We think your Excellency has not proved, either that the Colony is a Part of the politick Society of England, or that it has ever consented that the Parliament of England or Great Britain should make Laws binding upon us in all Cases whatever, whether made expressly to refer to us or not.

We cannot help before we conclude, expressing our great Concern, that your Excellency has thus repeatedly, in a Manner insisted upon our free Sentiments on Matters of so delicate a Nature, and weighty Importance. The Question appears to us to be no other, than Whether we are the Subjects of absolute unlimited Power, or of a free Government formed on the Principles of the English Constitution. If your Excellency's Doctrine be true the People of this Province hold their Lands of the Crown and People of England, and their Lives, Liberties and Properties are at their Disposal; and that even by Compact and their own Consent. They are subject to the King as the Head *alterius Populi* of another

another People, in whose Legislative they have no Voice or Interest. They are indeed said to have a Constitution and a Legislative of their own, but your Excellency has explained it into a mere Phantom ; limited, controuled, superseded and nullified at the Will of another. Is this the Constitution which so charmed our Ancestors, that as your Excellency has informed us, they kept a Day of solemn Thanksgiving to Almighty God when they received it ? And were they Men of so little Discernment, such Children in Understanding, as to please themselves with the Imagination that they were blessed with the same Rights and Liberties which natural born Subjects in England enjoyed, when at the same Time they had fully consented to be ruled and ordered by a Legislative a Thousand Leagues distant from them, which cannot be supposed to be sufficiently acquainted with their Circumstances, if concerned for their Interest, and in which they cannot be in any Sense represented.

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*On Saturday the 6th of March, his Excellency was pleas'd to put an End to the Session, after delivering the following SPEECH to both Houses, viz.*

*Gentlemen of the Council, and*

*Gentlemen of the House of Representatives,*

**I** THINK it incumbent on me to make some Observations, before I put an End to the Session, upon your last Messages to me on the Subject of your Constitutional Dependance upon the Supreme Authority of the British Dominions. As the Council admit a partial Dependence, and suppose it to be consistent with the Principles and Nature of Government, I shall only endeavour very briefly to shew the contrary.

In your first Message, Gentlemen of the Council, you made some Strictures upon the Nature of the Supreme Authority in Government, both divine and human, the latter of which you determined could not be absolute and unlimited. I thought the Distinction between divine and human Power not pertinent, and in Answer to you, I only remarked, that I had given you no Reason to suppose I intended a more absolute Power in Parliament than what is founded in the Nature of Government, and this, in your second Message, you construe an Acquiescence in your Reasons, which it certainly was not. You go on however to explain your Meaning by asserting, that " what is usually denominated the Supreme Authority of a Nation must be limited in its Acts to the Objects

jects that are properly or constitutionally Cognizable by it."

Before you thus defined the Nature of Supreme Authority, I wish you had considered more fully what Objects there can be in a Government which are not cognizable by such Authority. You instance in a *subordinate* Power in Government which, whilst it keeps within its Limits, is not subject to the Controul of the *supreme* Power. Is there no Inconsistency in supposing a *subordinate* Power without a Power *superior* to it? Must it not so far as it is without Controul be, itself, Supreme?

It is essential to the Being of Government that a Power should always exist which no other Power within such Government can have Right to withstand or controul: Therefore, when the word *Power* relates to the Supreme Authority of Government it must be understood *absolute* and *unlimited*.

If we cannot agree in these Principles which no sensible Writer upon Government has before denied, and if you are still of Opinion that two Jurisdictions, each of them having a Share in the Supreme Power, are compatible in the same State, it can be to no Purpose to Reason or Argue upon the other Parts of your Message. Its enough to observe that this Disagreement in our Principles will have its Influence upon all the Deductions which are made from them.

I will also consider the last Message from you, Gentlemen of the House of Representatives, upon the same Subject, in as few words as the Importance of it will admit.

You say you have not discovered that the Principles advanced by the Town of Boston are unwarrantable by the Constitution. Whether they are or are not, will depend upon the Determination of the Point which you are now controverting. Your not having discover'd that the other Towns and Districts in the Province, were invited by the Town of Boston to adopt their Principles, must proceed from Inattention. Have not the Doings of that Town been sent through the Province, accompanied with a circular Letter, "desiring a free Communication of Sentiments," and, among other Expressions of the like Tendency, lamenting the Extinction of Ardor for civil and religious Liberty if it should be the general Voice of the Province, that the Rights as stated do not belong to them, and trusting that this cannot be the Case. If this is not inviting to adopt their Principles, I have mistaken their Sense and Meaning. The consequent Doings of so many other Towns shew that they understood them as I have done. I am sure I have no Disposition to represent unfavourably the Doings of any Town in the Province.

You assert "that it is the indisputable Right of all or any of His Majesty's Subjects in this Province *regularly and orderly* to meet together to state the Grievances they labour under," &c. I never denied it. Does it follow that it is *regular*

*gular* and *orderly* for the Inhabitants of Towns, in their Corporate Capacity, to meet and determine upon Points which the Law gives them no Power to act upon ? You have not asserted that it is, but you have not declared that it is not, as I thought a Regard to the Peace and Order of the Province made our Duty.

If the Fundamentals of our Government were not disputed, these Irregularities would appear to you in a very strong Light and you would join in discountenancing them.

To support your Principle that you hold your Lands and derive your Authority of Government from the *Kings* of England and not from the *Crown* of England you have very largely handled the Doctrine of Feudal Tenures. I observed to you in my last Speech that you had been misled by the Authority of an anonymous Pamphlet. I am now obliged to observe that you are again misled by having a general View of this Doctrine brought before you, as it respects States or Governments under absolute Monarchs, and not as it is connected with or grafted upon the English Constitution. I shall not therefore spend Time in examining the Principles of your System, it being immaterial to the Point between us whether they are just or not. Instead thereof I will in as brief and clear Terms as I can, lay this Doctrine before you as it relates to the Government of England.

Let me then observe to you, that from the Nature of Government a Supreme Legislative Power must

must always exist over all the Parts and all the Affairs of every Dominion—that in absolute Monarchies the Legislative and executive Powers are united in the Prince or Monarch—that in the English Constitution there is, and always has been, a Legislative Power distinct from the regal or executive Power—that the Feudal System, in your View of it and without correcting, could not be introduced into the English Government without changing the Constitution from a mixed to an absolute monarchical Government—that this System nevertheless has been introduced, the Constitution of a mixed Government still remaining, and consequently the System has been corrected or altered. What this Alteration has been will appear from Historical Facts. Before the Reign of William the First the Traces of Feudal Tenure are faint, the Evidence of a Legislative Power, an Assembly or Council of Wise Men, distinct from the Regal Power is strong and sufficient. After William had obtained the Crown, the other Nations of Europe being under this System, & particularly his Dominions in Normandy, and Wars being more frequent & Commerce small, and the Means of furnishing Money, the Sinews of War, difficult if not impracticable, meerly for the Defence of the Kingdom this Polity was so far established as that all the Landholders were made to contribute, by Military or other Services, to the Defence of the State, and for this Purpose, and by a Fiction only, the Lands were in Form acknowledged to have been originally in the King and held of him by his Subjects, and by this Form subjected to a supposed just Proportion of the Defence and Support of the Kingdom. This Establishment

blishment appears to have been made, not by an  
 Act of Regal Power alone but by the Authority  
 of the great Council of the Nation or Assembly  
 of the Realm, and the Legislative Authority still  
 remained, according to its Nature, paramount and  
 above all other Powers in the Dominion, and ac-  
 cordingly from Time to Time the Abuses of the  
 Feudal Power either in the Sovereign or in such  
 as held under him were corrected by the Supreme  
 Legislative, and Magna Charta itself was framed  
 and agreed upon, principally if not altogether for  
 this Purpose. In succeeding Ages, as Commerce  
 and Money increased and the Means of support-  
 ing War became more easy, these Military Ser-  
 vices were gradually taken away, either, by Pur-  
 chase or commuting for other Services or certain  
 Rents, so that at the Period when America was  
 first granted, the Remains were inconsiderable and  
 the Lands of the Kingdom were held, generally,  
 by what is called Socage Tenure or, in other Words,  
 an Acknowledgment of Fidelity to the Sovereign,  
 and a certain Rent which was in Name only, or of  
 Value so inconsiderable as not to be demanded.  
 The original Claim in the Sovereign, whether  
 at first a Fiction or not, so far remained as that all  
 Forfeitures, all Escheats, all new discovered  
 Lands accrued to him, unless the Supreme Legis-  
 lative should limit the Right to them, or otherwise  
 dispose of them. This was the State of Feudal  
 Tenure in England at the Time when the first  
 Charter was granted, and the Difference between  
 your System and mine will appear by this fami-  
 liar Instance : Louis the 13. of France, I  
 think the same Year the Massachusetts Patentees  
 obtained the Grant of that Colony, by a Royal  
 Edict

Edict granted to one Hundred Associates the Country of Canada, with Powers of Government and all the Privileges of natural born Subjects of France to all who should go and Inhabit or be Born there, with other very great Powers and Privileges. This, then, appears to be the different State of the People of the two Colonies. Louis, being an absolute Monarch, the Regal and Legislative Power were united in him. The Inhabitants of Canada therefore were subject to him and to every succeeding King of France as their Supreme Lord who, by Virtue of his uncontrollable Power, might at any Time revoke the Royal Edict at Pleasure, or dissolve any Charter whatsoever even though like the famous Edict of Nantes it had been declared irrevocable. Charles, having in him the regal Power only, could Grant no more than was in him, and the Legislative Power which was in the Parliament must still remain there, and consequently the Subjects of England continued when in the Colony still subject to the regal constitutional Power of Charles and the supreme Legislative Power of Parliament. And, I think, nothing is more certain than that the constitutional Restraint of the regal Power in Charles prevented the Charter from being revoked and annulled in less than Ten Years after the Date of it.

If this brief Account of Feudal Tenure, as it is Part of the English Constitution, be just, as I shall think it is until I have better Authority than any I have yet seen to the contrary, the Fabrick which you have raised will still fail of Support, for it wholly depends upon very different Principles,  
and

and upon what you hope I do not mean to introduce, viz. the Feudal Sytem in its Perfection. If this Support fails, there is but little Occasion for me to remark upon the other Parts of your Message, and I shall pass them over, except such as may tend to make wrong Impressions upon any unwary Readers.

You cannot conceive “ why the King has not the same Right to alienate and dispose of Countries acquired by the Discovery of his Subjects as he has to restore upon a Treaty of Peace Countries acquired in War carried on at the Charge of the Nation, or to sell and deliver up any Part of his Dominions against the general Sense of the Nation.” I will venture to conjecture a Reason. By the English Constitution the sole Power of making War and Peace is in the King. It often happens that the restoring and ceding Acquisitions made in War is absolutely necessary to the Re-establishment of Peace, and if the King was restrained from such Restorations or Cessions an unsuccessful War might be perpetuated to the Destruction of the Kingdom. This Power therefore seems necessarily to result from this Prerogative of the Crown. And for selling any Part of the Dominions against the general Sense of the Nation I never supposed it to be a Part of the Prerogative, but have called it an Act of *Power*; by which I thought no candid Reader would understand any Thing but *meer Power*:

Your Attempt to shew that new discovered Countries do not become Part of the State, from the Authority of Puffendorff, &c. will fail, be-  
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cause

cause the Instance given by him of a Colony erected into a separate Common Wealth plainly appears by the Context to be by the Leave or Consent of the Parent State, and it does not appear that the other Cases were not so.

Your Remark upon the Authority I bring to shew that the Colony, being feudatory, is under the Government of the King's Laws, is very singular. You suppose it must mean the King's Laws *absolutely*, or as you explain it, not the Laws of Parliament. Do any of you remember ever to have seen the Expression, *the King's Laws*, meaning the King of England, used in any other Sense than *the Laws of the Realm*? You say I have not named the Authority. The Case I refer to is the King against Crowle, in the 2d. Vol Burrow's Reports, and for the Authority, which you will find mentioned there, I am not able to name a greater.

I would pass over in Silence your Attempt to shew that Allegiance is due to the natural Person and not to the Body Politick of the King, if I had not been well informed that the artificial Reasoning of Lord Chief Justice Coke upon the Doctrine of Allegiance, in the noted Case of Calvin, as you have recited it, had great Weight with some of the Members of the House. But have you recited this Case truly? After all the Refinements on this Subject does it appear that they can amount to any Thing more than that Allegiance is not due to the Politick Capacity *only*? And is it not expressly said that the natural Person of the King is ever accompanied with the Politick Capacity,

Capacity, and the Politick Capacity as it were appropriated to the Natural Capacity? Or have you any clear Idea of Allegiance to a King in his natural Capacity without any Relation to his political Capacity? From this Authority misunderstood you infer that I am mistaken in supposing your Allegiance to be due to the *Crown* of England. Without any Refinements, it is plain that it was one Condition, on the Performance whereof the first Charter depended, that Allegiance should be borne to King Charles his Heirs and *Successors*. Wherever therefore the Succession to the Crown shall go there Allegiance is to follow. The Condition in the second Charter is the same, and this is enough for my Purpose, which was to shew that in whatever Person the Regal Authority shall be, there your Allegiance is due. I wish you had omitted all you have said upon this Subject, for neither the Reasoning of Lord Coke, nor the Declarations of the Judges, in any Measure tend to the Purpose for which you produce them.

Your Assertion that Parliament, in regulating the Fishery, had nothing in View but to prevent a Monopoly of the Sea, and claimed no Authority over the Plantations or Lands in America, has only your own Authority to support it. It appears from the Debates in Parliament, that it was the Refusal of the Patentees to suffer Fish to be dried upon the Land within their Patent, by any Person who had not Licence from them, which was complained of as a Grievance, and the Bill was brought in to remove this Grievance: The King might very well refuse his Assent, not be-

cause Parliament had no Jurisdiction, but because he did not think fit to join with the Lords and Commons in an Act which invalidated or abridged those Privileges in a Patent of Lands which by his Royal Prerogative he had a Right to grant.

I will make no particular Remarks upon those Parts of your Message which relate to the Sense the People have had of their Constitution, as there can be no End to Disputes upon Facts which by small Deviations from the true State of them may be made to serve one Side or the other.

It is evident that the first Settlers of this Colony left England with a just Sense of their Dependence—that the Sense continued until the Principles of Anarchy in England spread in America, and it is conceded that these Principles were avowed by many of the Inhabitants here for near twenty Years after they were exploded in England. It is equally certain, that at the Time of the Revolution the People returned to a just Sense of the Supremacy of Parliament, and I think I may very safely say that the oldest Person in the Province has never heard the Supremacy called in Question until within a few Years past.

You again express your Concern that I should thus repeatedly insist upon your giving your free Sentiments on so delicate a Subject as the Authority of Parliament. In the Beginning of your Message you vindicate the Town of Boston & the other Towns in the Province, which have met together and determined upon the same Subject, and made their Proceedings Matter of Record  
and

and published them in News-Papers ; and yet in the Close of it you assert that the Subject is too delicate and of too great Importance for you to consider. Certainly then it must have been extremely irregular in the Towns to take upon them separately to determine Points which they had no Authority to determine, and in this Way to influence if not determine the Acts and Doings of their Representatives in General Assembly, who cannot have the same Freedom of thinking and acting, after their Constituents have determined and resolved, as they had before.

*Gentlemen of the Council*

*and House of Representatives,*

I am sensible that nice Distinctions of civil Rights and legal Constitutions are far above the Reach of the Bulk of Mankind to comprehend. There are, however, a few plain fundamental Principles of Government which carry within themselves such Evidence as cannot be resisted, and are no sooner proposed than assented to—— Such as these—That in every Government there must be somewhere a supreme uncontrollable Power, an absolute Authority to decide and determine—That two such Powers cannot coexist, but necessarily will make two distinct States—That in a State of Society we give up Part of our natural Liberty in order to secure that legal Freedom which it is the great End of Government to maintain and preserve—That a Right in Individuals or Parts of a Government to judge of the Decisions of the Supreme Authority and  
to

to submit or not submit as they think proper, cannot consist with a State of Government and must work the Dissolution of it. Whilst these Principles had their due Influence we enjoyed all that Freedom and all those other Blessings which a State of Government will admit of. Our Connection with our Parent State secured these Blessings to us, and by Means of a nominal Dependence we possessed as great a Share of real Freedom as the Parent State itself upon which we are said to depend.

I have laid before you, Gentlemen, what appeared to me to be the true Constitution of the Province, and recommended an Adherence to it because I believed it would restore us to and continue us in that happy State in which we flourished so long a Course of Years.

Certainly it is of the utmost Importance to you that these Points should be settled, for I know of no Maxim in the Law of greater Truth than this. *Where the Constitution is contested and the Laws are vague and uncertain, there, will be the greatest Slavery.*

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### E R R A T A.

PAGE 30, Line 31, for Governor, read Government.—p. 42, l. 19, f. satisfied, r. sanctified.—l. 20, f. Reputation, r. Repetition.—p. 52, l. 3, f. it, r. its.—p. 57, l. 3, f. Affects, r. Effects.—p. 80, l. 24, f. Cape Aod, r. Cape Cod.—*In some of the Copies*, P. 110. l. 15, f. thereof, r. therefore—and P. 118. l. 31, f. Faction, r. Fiction.

